

TOWN OF NEWFANE, VERMONT

**NEWFANE
ZONING BYLAWS**

ADOPTED: JUNE 16th, 2025

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APPENDIX

- A Town of Newfane Zoning Districts Map**
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- C South Newfane Village Zoning District Map**
- D Williamsville Village Zoning District Map**

Article 1
AUTHORITY AND PURPOSE

Section 100 ENACTMENT AND PURPOSE

101 Enactment. Whereas the Town of Newfane has created a Planning Commission and has adopted and has in effect a plan under Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, herein referred to as the Act, there is hereby established zoning regulations for the Town of Newfane. These regulations shall be

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102 Purpose. The purpose of these Bylaws is to provide for orderly development within the Town of Newfane, to implement the *Newfane Town Plan* as most recently amended, and to further the intents and purposes of the Act.

Section 110 EFFECTIVE DATE AND AMENDMENT

111 Effective Date

1. In accordance with the Act, these regulations and any amendments thereto shall take effect 21 days after the date of their adoption by the Town of Newfane. (Originally adopted 5/16/75; amended 8/23/77, 5/8/79, 12/12/85, 11/6/86, 7/16/87, 2/22/89, 6/28/89, 6/5/03, 10/21/04, 12/1/05, 2/15/07, 10/04/08, 02/19/15, 02/28/21, 9/18/23, and 6/16/25**.
2. The zoning bylaws and zoning map for the Town of Newfane in effect prior to the adoption of these Bylaws are hereby repealed as of the effective date of these regulations.

112 Amendment. These regulations, including the boundaries of zoning districts established herein, may be amended from time to time, following public hearing, in accordance with requirements and procedures established in the Act.

Section 120 APPLICATION AND INTERPRETATION

121 Application. The application of these regulations is subject to all subchapters of the Act as most recently amended. In accordance with the Act and except as hereinafter provided, no land development shall commence within the Town of Newfane except in conformance with these regulations. Land development, as defined in Article 2, shall not include customary maintenance activities. Any land development not specifically authorized under these regulations, unless otherwise exempted under the Act or the Newfane Subdivision Bylaws, shall be deemed to be prohibited.

122 Precedence of Regulations. These Bylaws are intended to supersede the previous Bylaws as amended, but it is not intended to repeal, annul or in any way impair any other regulations or permits previously adopted or issues, or annul any easements, covenants or other agreements between parties. Where these Bylaws impose a greater restriction upon

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the use of a structure or land than is required by any other statute, ordinance, rule, regulation, deed restriction, easement, covenant, or agreement, the provision of these Bylaws shall apply in securing a zoning permit. Applicants for a zoning permit for the use of a structure or land shall be solely responsible for meeting the requirements of all other applicable local, state and federal regulations, laws and ordinances.

123 Minimum Requirements. In their interpretation and application, the provisions of these Bylaws shall be held to the minimum requirements adopted for the promotion of the public, health, safety, comfort, convenience and general welfare. Nothing in these regulations shall exempt any applicant for a permit from full compliance with all other state and municipal laws.

Section 130 SEVERABILITY

Should any section or provision of these Bylaws be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these Bylaws as a whole, or any part thereof, other than the part so decided to be unconstitutional or invalid.

Article 2
ADMINISTRATION AND ENFORCEMENT

Section 200 ZONING PERMIT REQUIRED

201 Purpose. Zoning permits are required to assure the public and the applicant that development in Newfane is in conformance with these Bylaws.

202 Applicability. No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Newfane until a zoning permit has been issued by the Zoning Administrator or the land development is specifically exempted from the provisions of these regulations under Section 203. Land development shall include the following and requires a zoning permit:

1. The division of a parcel of land into two or more parcels.
2. The construction, conversion, relocation or enlargement of a structure including roads or bridges.
3. A reduction in any established setback distance including setbacks from a property boundary, road way, right-of-way, stream or wetland.
4. Mining, excavation, landfill, or land disturbance including the extraction of earth and mineral resources.
5. Any change in use, or extension of use of land or structures.
6. The damming of a stream.

203 Exemptions. The following exemptions shall not require a zoning permit. These exemptions shall apply unless located in a Regulated Flood Hazard Area as outlined in Article 6 of these Bylaws.

1. Small accessory buildings associated with residential uses but not used for human occupancy that are less than 100 square feet of floor area and less than 14 feet in height, and are not located within required setback areas or Regulated Flood Hazard Areas. Written notification, including a sketch plan showing structure setback distance from property lines and surface waters shall be submitted to the Zoning Administrator prior to construction.
2. The interior repair, alteration or renovation of any building or structure so long as the activity does not change the use of the building or structure.
3. Any exterior, renovation or maintenance that does not change the existing footprint or dimensions, or the use of a building or structure.
4. Home occupations in accordance with Section 542 of these Bylaws.

5. Accepted agricultural practices (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with § 4413(d) of the Act. Written notification, including a sketch plan showing structure setback distance from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
6. Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with § 4413(d) of the Act.
7. The construction or reconstruction of logging roads for the harvest of timber. (A road access permit may be required by the Selectboard)
8. The installation of septic systems and drinking water systems designed, approved, and installed in accordance with the Vermont Wastewater System and Potable Water Supply Rules.
9. Stone walls not exceeding six (6) feet in height, agricultural fences, mailboxes, clotheslines, and lamp posts.
10. Subdivisions of land that require subdivision approval under the Newfane Subdivision Bylaws. Subsequent development on subdivided lots shall require a zoning permit in accordance with these regulations.
11. Residential entry stairs, handicap access ramps, and walkways.
12. Grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 530.
13. Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
14. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

204 Application. A permit application form designed by the Planning Commission and approved by the Selectboard shall be used to implement these Bylaws. Applications are available upon request from the Town website, Town Clerk or Zoning Administrator. The applicant shall submit the completed application to the Zoning Administrator.

205 Required Application Items. Application for a zoning permit shall consist of the following:

1. A completed and signed Town application form with appropriate application fee.
2. A site plan drawn to scale showing project(s) in relation to existing and proposed structures, property lines, acreage figures, all setbacks and compass points, and scale bar.
3. A recording fee as established by the Selectboard is payable to the Town of Newfane and is non-refundable.
4. A Town Highway Access permit from the Selectboard, if required.
5. Documentation that applicable local and State reviews and approvals have been secured, including but not limited to site plan approval (Section 212.6), conditional use approval (Section 212.5), and the granting of a variance (Section 212.4), where required under the provisions of these Bylaws.

The Development Review Board (DRB) may require the applicant to submit additional information (e.g. approval letter from the appropriate fire company approving driveway design) if, in the DRB's judgment, such information is required before the DRB can fulfill its duties as specified in these Bylaws.

206 Completed Application. The Zoning Administrator shall not issue a zoning permit without a completed application.

The construction of any building requiring the installation of on-site potable water supply and/or wastewater systems shall not commence until such time that a potable water supply and/or wastewater system permit has been issued by the State of Vermont under 10 V.S.A. Chapter 64.

207 Issuance. A zoning permit shall be issued by the Zoning Administrator only in accordance with § 4449 of the Act and the following provisions:

1. Within 30 days of receipt of a complete application, including all application materials, fees, the Zoning Administrator shall act to issue or deny a zoning permit in writing, or refer the application to the Development Review Board, and/or State for consideration. If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
2. No zoning permit shall be issued by the Zoning Administrator for any use or structure that requires the approval of the Development Review Board or Selectboard until such approval has been obtained. For permit applications that must be referred to a State agency for review, no zoning permit shall be issued until a response has been received from the State, or the expiration of 30 days following the submission of the application to the State.

3. If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. In accordance with § 4449(d) of the Act, if the new bylaw or amendment has not been adopted by the conclusion of the 150-day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of the existing bylaw. An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted under the 150-day period shall be reviewed again, at no cost, under the existing bylaws and ordinances, upon request of the applicant. Any determination by the Zoning Administrator under this section shall be subject to appeal under Section 214.
4. A zoning permit shall include a statement of the time within which appeals may be taken under Section 214, and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public road until the time for appeal has expired.
5. The Zoning Administrator, within three days of the date of issuance, shall deliver a copy of the zoning permit to the Listers, and shall post a copy of the permit in the Town Office for a period of 15 days from the date of issuance.

208 Effective Date. No zoning permit shall take effect until the time for appeal under Section 214 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

209 Permit Expiration and Extension.

1. Permits shall remain in effect for one year from the date of issuance, unless the permit specifies otherwise. All development authorized by the zoning permit and associated approvals shall be commenced within this period, or the zoning permit shall become null and void. For the purposes of these Bylaws, the completion of sufficient site work to enable the construction of the foundation of a structure and the construction of such foundation shall constitute commencement. Once a permit has expired, reapplication shall be required for a new zoning permit subject to any regulations in effect at the time of reapplication.
2. Prior to expiration of a zoning permit the Zoning Administrator may extend a zoning permit for a period not to exceed one year. A request for permit extension shall be made in writing prior to the expiration date of the zoning permit and shall include specific reasons and circumstance justifying the extension.
3. Site plan and conditional use approval shall expire with the expiration of the zoning permit, unless the DRB extends the completion date as part of its initial approval. Prior to expiration of the permit and upon a written request from the applicant, the DRB may grant a one-time only extension of the site plan and/or conditional use approval and zoning permit for an additional 12 months.

Section 210 REVIEW CRITERIA AND PROCESS

211 Zoning Administrator.

1. Appointment. The Selectboard shall appoint a Zoning Administrator to act as the Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the § 4448 of the Act. The Selectboard may remove a Zoning Administrator for cause at any time.

An acting Zoning Administrator may be appointed by the Selectboard who shall have the same duties and responsibilities of the Zoning Administrator in that person's absence. In the event an acting Zoning Administrator is appointed, the Selectboard shall establish clear policies regarding the authority of the Zoning Administrator relative to the authority of the acting Zoning Administrator.

2. Duties. The Zoning Administrator shall administer literally and shall strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

In addition, the Zoning Administrator shall coordinate the municipality's development review programs. If other municipal permits or approvals are required, the Zoning Administrator shall provide the applicant with necessary forms. The Zoning Administrator may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

3. Authority. The Zoning Administrator is authorized to issue zoning permits only for the following land developments without approval of the Development Review Board:
 - a. Construction of new one, two, three and four-unit dwellings, provided that such construction is in conformance with the provisions of these Bylaws;
 - b. Additions, reconstructions and improvements to one, two, three and four-unit dwellings, provided that such additions, reconstruction and/or improvements are in conformance with the provisions of these Bylaws;
 - c. Signs;
 - d. Residential accessory uses, including Accessory Dwelling Units (ADU) (Section 511);
 - e. Home child care serving no more than six (6) full time children and four (4) part-time children;

- f. Group homes and residential care homes serving not more than eight (8) persons that are not located within 1,000 feet of another existing or permitted group home or residential care home; and,
 - g. Pond less than 800 square feet in surface area.
4. Conformance with Bylaws. The Zoning Administrator shall issue no permit except in conformance with the provisions of these Bylaws.

212 Development Review Board.

1. Establishment. There is hereby established a Development Review Board (hereinafter referred to as “the DRB”), members of which shall be appointed by the Selectboard, in accordance with the provisions of § 4460 of the Act.
2. Duties. The DRB shall have all the responsibility, powers and duties specified in the Act, including hearing and deciding upon appeals brought under Section 224 of these Bylaws, hearing and deciding upon requests for variances under § 4469 of the Act, and hearing and deciding upon requests for conditional uses within the district for which they are proposed.
3. Procedures. The DRB shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct. The officers of the DRB may administer oaths, compel the attendance of witnesses and the production of material relevant to any issue under appeal. All meetings shall be open to the public. The DRB may examine any property, maps, books or records bearing on matters concerned in such proceedings.
4. Granting of Variances.
 - a. The DRB may grant a variance to these Bylaws only if all the following facts are found and the findings are specified in its decision, as in § 4469 of the Act:
 - i. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning bylaw in the neighborhood or district in which the property is located;
 - ii. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning bylaw and that the authorization or variance is therefore necessary to enable the reasonable use of the property;
 - iii. Unnecessary hardship has not been created by the appellant;

- iv. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare;
 - v. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning bylaw and from the plan.
- b. On an appeal for a variance from the provisions of these regulations for a structure that is primarily a renewable energy resource structure, the DRB may grant a variance only if it finds that all of the facts listed in § 4469(b) of the Act are found.
 - c. In addition to the requirements of subsection (a) above, variances for development in a Regulated Flood Hazard Area shall be reviewed in accordance with Section 610.
5. Conditional Use Review. No Zoning Permit shall be issued by the Zoning Administrator for any use or development that requires a conditional use permit until the DRB grants approval. Conditional use review shall be required for the establishment, construction, alteration, or reconstruction of any use listed as a “conditional use” in Article 3.

In order to expedite the local review process, conditional uses are not subject to separate site plan review under Section 212.6. However, in order to better integrate site design with adjoining properties, site plan review criteria are incorporated here by reference for consideration under conditional use review.

In considering its action, the DRB shall make findings on the following, as well as any specific use standards that may apply:

- a. General Standards. The proposed conditional use shall not adversely affect:
 - i. The capacity of existing or planned community services or facilities;
 - ii. The character of the area affected as defined by the purpose or purposes of the zoning district within which the property is located and specifically stated policies and standards of the Town Plan;
 - iii. Traffic on roads and highways in the vicinity;
 - iv. Any bylaws and ordinances of the Town of Newfane then in effect; and
 - v. Utilization of renewable energy resources.
- b. Site Plan Review. In addition to the general standards set forth in Section 212.5(a)

above, the DRB shall also apply all applicable site plan review standards set forth in Section 212.6. Compliance with such standards shall be a requirement of conditional use approval.

6. Site Plan Review. Site plan review shall be required for the establishment, construction, alteration or reconstruction of any use listed as a “permitted use” under Article 3, except for single, two, three and four-unit dwellings and associated accessory structures, and other types of development that are specifically exempted from these regulations (see Section 203).

The DRB shall, after public notice and hearing, decide upon applications for site plan review. In considering its action, the DRB shall make findings on the following criteria:

- a. Maximum safety of vehicular, pedestrian, horse, and bicycle circulation between the site and the street network;
 - b. Adequacy of circulation, parking and loading facilities with particular attention to safety;
 - c. Adequacy of landscaping, screening and setbacks in regards to achieving maximum compatibility and protection of adjacent property;
 - d. The protection and utilization of renewable energy sources; and
 - e. Other matters specified in these Bylaws that are directly related to the above aspects of the site plan review.
7. Decisions. Any action or decision of the DRB shall be taken by the concurrence of a majority of the members of the DRB. In accordance with § 4464(b) of the Act, the DRB shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

- a. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 214. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
- b. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.
- c. All decisions of a DRB shall be sent by certified mail, within the required 45-day

period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

213 **Reviews by State Agencies.** In accordance with § 4448(c) of the Act, the applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to ensure timely action on any state related permits that may be required.

214 **Appeals.**

1. Appeal of a Decision of the Zoning Administrator. In accordance with § 4465 of the Act, an interested person may appeal a decision or act of the Zoning Administrator by filing a written notice of appeal with the secretary of the DRB within 15 days of the decision or action.
 - a. Hearing. A public hearing shall be held by the DRB within 60 days of the filing of the notice of appeal.
 - b. Decision. The DRB shall render a decision in regards to the appeal within 45 days after completing the hearing, and shall within that period send to the appellant, by certified mail, a copy of the decision.
 - c. Exception. If the DRB considers the issues raised by the appellant in the appeal to have been decided in an earlier appeal or to be the same in substantially or materially the same facts by or on behalf of that appellant, the DRB may reject an appeal without hearing and render a decision. Such decision, including findings of fact, shall be rendered within 10 days of the filing of the appeal.
2. Appeal of a Decision of the Development Review Board. In accordance with § 4471 of the Act, an interested person who has participated in a municipal regulatory proceeding on the subject may appeal a decision of the DRB to the State Environmental Court in the manner prescribed by the Act within 30 days of the decision or action. Participation in the local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

Section 220 VIOLATIONS AND ENFORCEMENT

221 **Violations.** The commencement or continuation of any land development, subdivision or use that is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the Act. A person who violates any provision of these Bylaws shall be subject to a fine of not more than \$100 dollars for each offense. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute in the name of the town any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the town.

- 222 Notice of Violation.** Pursuant to the Act, no action may be brought under this section unless the alleged offender has had at least seven days' notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the seven-day notice period and within the succeeding 12 months.
- 223 Recording Requirements.** Within 30 days of the issuance of a violation, the Zoning Administrator shall deliver either the original or a legible copy of the notice of violation to the Town Clerk for recording in the land records.
- 224 Limitations on Enforcement.** The town shall observe any limitations on enforcement relating to municipal permits and approvals as set forth in the Act. Enforcement proceedings must be instituted within 15 years from the date the violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the Town and not the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit or approval issued after July 1, 1998 unless the permit or a notice of permit has been recorded in the town land records in accordance with Section 223.

Article 3
ESTABLISHMENT OF ZONING DISTRICTS AND DISTRICT STANDARDS

Section 300 ESTABLISHMENT OF ZONING DISTRICTS

301 Zoning Districts. For the purpose of these Bylaws, the Town of Newfane is divided into the following zoning districts, as described in the accompanying tables and depicted on the official zoning map, to be designated by the abbreviation set forth below:

| | |
|-------------------|------|
| Village District | (V) |
| Rural District | (RU) |
| Resource District | (RE) |

302 Official Zoning Map.

1. The location and boundaries of said zoning districts are established as shown on the "Town of Newfane Official Zoning Map," Appendix A, and the National Flood Insurance Program maps for the Town of Newfane, which are hereby adopted by reference as part of these regulations. The official zoning map shall be located in the Town Clerk's office and shall be the final authority as to the current zoning status of land and waters in the town.
2. The official zoning map shall be identified by the signature of the Chair of the Selectboard, as attested to by the Town Clerk.
3. No changes of any nature shall be made on the official map or overlays except in conformance with zoning amendment procedures and requirements set forth in the Act.

303 Interpretation of Zoning District Boundaries.

1. Boundaries between districts are indicated on the Zoning Map and described in these Bylaws. Where there is uncertainty, contradiction or conflict as to the intended location of any district boundary due to scale, lack of detail or illegibility of the maps, the Zoning Administrator shall make the interpretation. A determination of the Zoning Administrator regarding the location of a district boundary may be appealed to the Development Review Board.
2. In the case of lots lying in more than one district, the provisions of any district may be applied for a distance of not over thirty feet into any other adjacent district.

Section 310 GENERAL DISTRICT STANDARDS

1. The standards for each district shall apply uniformly to each use and/or structure, unless otherwise specified in these regulations. Non-conforming uses and non-conforming structures, and non-conforming lots shall be regulated in accordance with Section 430.

2. The property line adjoining the street of your legal street address shall be considered a front yard for the purpose of these regulations.
 - a. Corner and other double frontage lots will be deemed to have a front setback as shown above. The remaining property lines will be classified as side property lines for the purposes of setbacks.
3. The maximum building height in all districts is 35 feet. Building height is measured exclusive of appurtenant structures or decorative features.

Section 320 VILLAGE DISTRICT

321 Purpose. The purpose of the Village District, map attached Appendix B, C & D, is to preserve the historic integrity and support the traditional role of the village as the focus of many of the social and economic activities that support the surrounding community, and to provide for residential and commercial development, as well as governmental uses that serve the needs of the village and the community.

322 Permitted Uses. The following uses are allowed with the approval of the Zoning Administrator in accordance with Section 200. Uses marked with an * require site plan review by the DRB in accordance with Section 212.6.

| | |
|---|---|
| <p>Accessory Dwelling Unit (see Section 511) Accessory Use/Structure to a permitted use Artist Studio/Gallery* Bank* Bed and Breakfast* Child Care Facility* Cultural Facility* Funeral Home* Home Child Care (see Section 512)</p> | <p>Lodge/Inn* Office (Professional/Business) * Personal Services* Public Facility (see Section 514) * Religious Institutions* Residential Care/Group Home (8 or fewer; see Section 513) Retail* Single, Two, Three and Four-Unit Dwellings</p> |
|---|---|

323 Conditional Uses. The following uses are allowed with conditional use approval by the DRB in accordance with Section 212.5.

| | |
|---|--|
| <p>Accessory Use/Structure to a conditional use Cemetery Home Business (see Section 543) Hotel/Motel Indoor Recreation Facility Light Industry Mixed Use (see Section 550) Motor Vehicle Service Station</p> | <p>Multi-Unit Dwelling (Five Plus) Outdoor Recreational Facility Ponds (see Section 570), Bridges and Culverts Private Club Public Facilities (see Section 514) Public Utility Facility Restaurant</p> |
|---|--|

- 324 Area, Dimensional, and Coverage Standards.** The following requirements shall apply to all uses and structures:

| | |
|--------------------|---------|
| Lot Area | .5 acre |
| Lot Frontage | 50 feet |
| Front Yard Setback | 20 feet |
| Side Yard Setback | 10 feet |
| Rear Yard Setback | 10 feet |

Section 330 RURAL DISTRICT

- 331 Purpose.** The purpose of the Rural District is to accommodate low to moderate density development that is consistent with existing land uses and sensitive to the limitations of the land and existing land uses. Limited commercial uses are allowed in a manner that avoids unreasonable burdens on town roads and services or other adverse impacts on the rural character of the district.

- 332 Permitted Uses.** The following uses are allowed with the approval of the Zoning Administrator in accordance with Section 200. Uses marked with an * require site plan review by the DRB in accordance with Section 212.6.

| | |
|--|--|
| Accessory Dwelling Unit (see Section 511) Accessory Use/Structure to a permitted use Child Care Facility* Home Child Care (see Section 512) | Residential Care/Group Home (8 or fewer; see Section 513) Single and Two-Unit Dwellings Three and Four-Unit Dwellings* |
|--|--|

- 333 Conditional Uses.** The following uses are allowed with conditional use approval by the DRB in accordance with Section 212.5.

| | |
|--|--|
| Accessory Use or Structure to a conditional use Animal Hospital Artist Studio/Gallery Bed and Breakfast Campground (see Section 520) Cemetery Contractor's Yard Cultural Facility Extraction of Earth Resources (see Section 530) Home Business (see Section 543) Indoor Recreation Facility Kennel Light Industry | Lodge/Inn Mixed Use (see Section 550) Mobile Home Park (see Section 560) Multi-Unit Dwelling (Five Plus) Office (Professional/Business) Outdoor Recreational Facility Personal Service Ponds (see Section 570), Bridges and Culverts Private Club Public Facilities (see Section 514) Public Utility Facility Religious Institutions Residential Care/Group Home (more than 8 residents) Restaurant Retail |
|--|--|

334 Area, Dimensional, and Coverage Standards. The following requirements shall apply to all uses and structures:

| | |
|--------------------|---------|
| Lot Area | 2 acres |
| Lot Frontage | 90 feet |
| Front Yard Setback | 65 feet |
| Side Yard Setback | 25 feet |
| Rear Yard Setback | 25 feet |

335 Supplemental District Standards.

1. Additional Use Standards. In addition to other standards set forth in these Bylaws, with the Rural District.
 - a. Outdoor Storage. Outdoor storage of equipment and materials for non-residential uses shall only occur within designated areas, approved on the Site Plan by the Development Review Board. All outdoor storage areas shall be adequately screened from view.

Section 340 RESOURCE DISTRICT

341 Purpose. The purpose of the Resource District is to indicate the Town’s commitment to the proper management of and protection of sensitive areas that include large areas of land serving as watershed areas and/or are characterized by the presence of steep slopes, shallow soils, important wildlife habitat, and large blocks of unfragmented forest. These areas are generally in a natural state and contribute positively to the perception of the rural character.

342 Permitted Uses. The following uses are allowed with the approval of the Zoning Administrator in accordance with Section 200.

| | |
|--|--|
| Accessory Dwelling Unit (see Section 511) Accessory Use/Structure to a permitted use Home Child Care (see Section 512) | Residential Care/Group Home (8 or fewer; see Section 513) Single and Two-Unit Dwellings |
|--|--|

343 Conditional Uses. The following uses are allowed with conditional use approval by the DRB in accordance with Section 212.5.

| | |
|--|---|
| Accessory Use/Structure to a conditional use Extraction of Earth Resources (see Section 530) Home Business | Natural Burial Ground Outdoor Recreational Facility Ponds (see Section 570), Bridges and Culverts |
|--|---|

- 344 Area, Dimensional, and Coverage Standards.** The following requirements shall apply to all uses and structures:

| | |
|--------------------|---------|
| Lot Area | 5 acres |
| Lot Frontage | 90 feet |
| Front Yard Setback | 65 feet |
| Side Yard Setback | 25 feet |
| Rear Yard Setback | 25 feet |

345 Supplemental District Standards.

1. Additional Use Standards. In addition to other standards set forth in these Bylaws, with the Resource District, the following standards and restrictions apply:
 - a. Outdoor Recreational Facilities shall be limited to open space and land-based recreation uses (e.g. public forest, protected wildlife habitat, recreation trails), that are compatible with a forested environment.

Article 4
GENERAL STANDARDS

Section 400 APPLICABILITY

The following general bylaws, including provisions under the Act, shall apply to all uses and structures as specified.

Section 410 STATE REQUIREMENTS

In accordance with § 4412 of the Act, the following shall apply:

- 411 Existing Small Lots.** Any lot that is in individual and separate, nonaffiliated ownership from surrounding properties, lawfully in existence as of the effective date of these Bylaws, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than 1/8th acre in area with a minimum width or depth dimension of forty (40) feet, and all other applicable requirements of these Bylaws are met.
- 412 Required Frontage or Access.** Land development may be permitted only if there is adequate means of access, either frontage on a public road (Class 1, 2, 3, or 4) or access by means of a permanent easement or right of way to such a public road, or to public waters. Approval for access is granted by the Selectboard. Access easements or rights-of-way shall not be less than 20 feet in width. If serving more than two lots or uses, the DRB may require a right-of-way of up to 40 feet in width to ensure safe and adequate access. Access on a state highway must be permitted by Vermont Agency of Transportation.
- 413 Equal Treatment of Housing.** No part of these Bylaws shall have the effect of excluding mobile homes, manufactured, modular housing, or other forms of prefabricated housing from the Town except upon the same terms and conditions as conventional housing is excluded. In addition, no zoning regulation shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in the Newfane Town Plan.

Section 420 CHANGE OF USE

The change in use of land, existing buildings or other structures to another use is subject to the provisions of these bylaws as follows:

1. The proposed use shall be subject to all the requirements of these Bylaws pertaining to such use, including but not limited to district, access, and/or parking requirements, as well as any other applicable municipal, state or federal bylaws currently in effect.
2. An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure meets the lot size, setback, parking and other requirements applicable to the proposed use.

3. A change of use to a use allowed under Section 211.3 shall require a zoning permit issued by the Zoning Administrator under that section.
4. A conversion or change of use to a use allowed with approval of the Development Review Board shall be reviewed and approved in accordance with Section 212.
5. Changes involving nonconforming uses and/or structures also are subject to and will be reviewed under Section 430.

Section 430 NON-CONFORMING USES, STRUCTURES, AND LOTS

431 Non-Conforming Uses. Any use of a structure or land lawfully in existence as of the effective date of these Bylaws, which does not conform to the uses allowed in the zoning district in which it is located, shall be considered a non-conforming use. A nonconforming use may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored by any means whatsoever, except as provided below:

1. Change. A non-conforming use shall not be changed, except to a conforming use.
2. Re-establishment. A non-conforming use shall not be re-established without the approval of the Development Review Board, if such use has been abandoned or otherwise discontinued for any reason for a period of 12 months, or has been changed to, or replaced by, a conforming use. Intent to re-establish a non-conforming use shall not confer the right to do so.
3. Resumption. A non-conforming use shall not be resumed after damage from any cause unless such use is resumed within 18 months of damage. A permit is required to resume the non-conforming use. If such use is not resumed within 18 months of damage, the non-conforming use shall be deemed to have been discontinued. Intent to resume a nonconforming use shall not confer the right to do so.
4. Expansion and Extension. No non-conforming use shall be expanded, extended, moved or enlarged unless the DRB finds that such expansion, extensions, movement or enlargement does not increase the degree of non-conformance. In no event shall a non-conforming use be expanded beyond the boundaries of the lot on which the non-conforming use originated. Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, number of employees and an increase in the size of operation through the expansion of a complying structure.
5. Variance. No new non-conforming use shall be created under the variance provisions or any other provision of these Bylaws.

432 Non-Conforming Structures. Any structure lawfully in existence as of the effective date of these Bylaws, which is not in compliance with the provisions of these Bylaws regarding lot size, density, height, setbacks, or other dimensional requirements for the district in which it is located, or any other requirement of these Bylaws, shall be

considered a non-conforming structure. A non-conforming structure may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored by any means whatsoever, except as provided below:

1. Maintenance and Repair. A non-conforming structure may undergo normal maintenance and repair without a permit provided that such maintenance and repair does not increase the degree of, or create any new noncompliance.
2. Extension or Enlargement. Extensions or enlargements may be made to any conforming portion of the non-conforming structure in accordance with all applicable requirements of these Bylaws.
3. Repair or Reconstruction. A non-conforming structure may be repaired, restored or reconstructed, in the same non-conforming location, after damage from any cause provided that a zoning permit to repair, restore or reconstruct is issued within one (1) year after such damage occurred and that the repair, restoration or reconstruction does not increase the degree of non-conformance which existed prior to the damage. If a permit has not been applied for within the one (1) year period, a variance for said reconstruction shall be required.

433 Non-Conforming Lots. Any lot lawfully existing at the time that these or any other Newfane Zoning Bylaws became effective and which does not comply with the regulations of the district in which is located shall be considered a non-conforming lot and shall be subject to the following provisions.

1. Notwithstanding the minimum lot area and frontage set forth in Article 3 of these Bylaws, non-conforming lots may be used for any permitted use in the district provided that the following minimum yard requirements are met:

| | |
|--------------------|---------|
| Front Yard Setback | 20 feet |
| Side Yard Setback | 10 feet |
| Rear Yard Setback | 10 feet |

2. Such a non-conforming lot shall not be further reduced in area or frontage, and if it is subsequently combined with other land in such a way as to reduce or eliminate the non-conformity, it shall not again be subdivided except in accord with these Bylaws.

Section 440 ABANDONMENT AND DEMOLITION OF STRUCTURES

Within one year after a cessation of use of any structure which has been substantially damaged or destroyed, all debris shall either: 1) be removed from the site, and any excavation or foundations thus remaining shall be covered or filled to the normal grade by the owner of the land; or 2) be secured with safety fencing that secures the property. Owners involved in legal proceedings resulting from the loss or damage of said structure shall comply with the above terms within one (1) year following the date of settlement of any such legal proceedings.

Section 450 PARKING AND LOADING

451 Parking. Off-street parking shall be provided in accordance with this section and when any use is established or enlarged unless otherwise approved by the DRB or waived under Section 563.

1. All parking lot proposals subject to DRB approval shall be reviewed relating to design, materials of construction, access, pedestrian safety and screening.
2. Driveways shall intersect the road at right angles unless impractical due to site conditions.
3. All parking spaces shall have a minimum width of nine (9) feet and a minimum length of eighteen (18) feet, excluding access and maneuvering room.
4. All parking spaces shall be provided on the same lot or another lot or public off-street parking facility within a radius of 500 feet.
5. The DRB may require additional off-street parking and loading spaces for any use if they find the minimum spaces are not sufficient.

| Minimum Off-Street Parking Requirements | |
|---|---|
| Use | Parking Spaces |
| Single-Unit Dwelling | 1 per unit |
| Accessory Dwelling Unit | 1 per unit |
| Two, Three, Four or Multi-Unit Dwellings | 1 per dwelling unit |
| Bed and Breakfast | 1 space per rented bedroom, plus 2 spaces for the owner of the property |
| Motel/Hotel/Inn | 1 per guest sleeping room plus 1 per each 2 employees on shift of largest employment |
| Restaurant/Bar | 1 space per 3 patron seats or one 1 space per 100 square feet of gross floor area, whichever is greater, plus 1 space per employee on the largest work shift. |
| Public Assembly (church, theater, auction barn, auditorium, or other) | 1 per 5 seats based on maximum seating capacity. |
| General Commercial (including retail stores, craft shops, and vendor markets) | 1 per 200 square feet or portion thereof of floor space or outdoor yard space in the case of vendors markets used for the sale or display of merchandise |
| Office | 1 per 250 square feet of gross floor area |
| Industrial Use (warehouse, manufacturer, processor) | 1 per 2 employees on the largest shift |
| Other | As determined by the Development Review Board under site plan or conditional use review |

6. On street parking may only be utilized in Village District Zone. On street parking may only be utilized within the frontage of the subject lot, not to exceed 50% of the total parking spaces required. This may only occur on a town highway.

452 Loading and Service Areas. Where a proposed development will require frequent or regular loading and unloading of people or goods, loading and service areas shall be provided on-site, in accordance with the following provisions:

1. In the case of retail, wholesale, and industrial buildings, 300 square feet of space, or as otherwise approved by the DRB, must be provided for loading and unloading trucks.
2. On-site service areas shall be provided as necessary for emergency vehicle access, recycling and waste collection facilities, snow storage and removal, or other purposes necessitated by the type and frequency of vehicle deliveries.
3. Unless specifically waived by the DRB, loading docks, trash collection and recycling areas, and similar service areas, shall be sited and screened on all sides so that no portion of such areas are visible from public streets and adjacent properties. Screening may include but not be limited to new and existing plantings, walls, fences, or screened panels.

453 Waivers. For development subject to review by the DRB, the DRB may waive, reduce, or otherwise modify on-site parking, loading and/or service area requirement under one or more the following provisions based on a determination that, due to circumstance unique to the development, the strict application of these standards is unnecessary or inappropriate:

1. The DRB may reduce the number of parking spaces required in the Village Districts where it can be shown that adequate on- or off-street public parking is available within 500 feet.
2. The DRB may waive the number of parking space required in any district where it can be shown that traffic volumes will be substantially less than anticipated.
3. The DRB may reduce the number of parking spaces required in any district when shared use of parking space is agreed to by two or more users who can demonstrate that their parking demands are at different times, and that meeting the requirements will not jeopardize landscaping features the DRB deems essential to the proposed development
4. The DRB may limit the number of parking spaces to the required minimum, based on site considerations including landscaping features, use, traffic patterns, streetscape, and other relevant concerns.
5. The DRB may reduce the initial parking, loading or service area required in association with the dedication of one or more undeveloped areas, to be maintained as

landscaped open space, for potential conversion in the event that areas initially permitted are subsequently deemed inadequate by the DRB in relation to documented volumes of use.

Section 460 SIGNS

461 Applicability. No sign shall be erected or affixed to a building exterior or placed freestanding on any premises or altered or moved, without a zoning permit issued by the Zoning Administrator except as otherwise specifically prohibited or exempted from these Bylaws as listed under Table 4.1. All signs shall be on the property to which they pertain.

Table 4.1: Exempted and Prohibited Signs

| Exempted Signs | Prohibited Signs |
|---|---|
| Historic plaques or markers no greater than two square feet affixed to a building. | Signs that impair highway safety. |
| National, state or corporate flags. | Rotating, revolving signs and flashing signs. |
| Non-advertising signs placed for directional, safety, or public service purposes (e.g. detour, road closed).* | Advertising signs or banners attached to utility poles or town sign posts. |
| Signs affixed to the interior side of a window visible from the exterior that advertise products or services available within the building, prices, payment methods or sales. | Changes made to the display of any sign that occurs more often than once in a 20 minute period, with the exception of a time/temperature display. |
| Temporary election signs to be posted and removed in accordance with state law. | Off-premises signs, except for those that conform to state laws. |
| Temporary signs that advertise lost pets and garage or yard sales to be promptly removed when it has fulfilled its function.* | |
| Temporary signs or banners advertising public or community events, to be displayed on town property with the permission of the Selectboard, which shall be removed immediately following the event.* | |
| On-site temporary signs advertising the opening of a new business, not to be maintained for a period of more than 30 days. | |
| Signs relating to trespassing and hunting, each not to exceed two square feet in area. | |
| On-premise historic or landmark signs, not to exceed one in number or six square feet in area. | |
| One contractor job sign, not to exceed 32 square feet in area and not illuminated, may be placed on any site while work is underway providing such sign is promptly removed following completion of construction. | |

| | |
|--|--|
| Two informational flags (e.g. open, sale, antiques) so long as they are not flown on a flag pole, placed at a height above 12 feet and do not exceed 24 square feet in size. | |
| One unlit real estate sign not exceeding six square feet in total area. Such sign shall be promptly removed when it has fulfilled its function. A corner lot is permitted to have two real estate signs. | |

*Sign is exempt from on-site requirement.

462 General Sign Standards. All signs, other than those specifically prohibited or exempted under Table 4.1, shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements relating to all signs:

1. There shall be no more than two signs on a premise of a size not to exceed 32 square feet in total area including appendages. Each surface of a sign shall be considered to be one sign.
2. Lighting shall be exterior light and hooded or covered so that the source of the light is not visible from the highway or beyond the property boundary, does not direct light upwards beyond the extent of the sign, and does not distract motor vehicles. Internally illuminated signs are prohibited.
3. On-premise signs to guide traffic and circulation or to protect public health and safety (e.g. “entrance only”, “exit only” and “parking behind the building”) shall not count against the sign total provided that each sign does not exceed three square feet in area and there are no more than four of these types of signs.
4. Sandwich board signs shall not count against the sign total provided that they are in accordance with the following:
 - a. The number of sandwich board signs shall be limited to one per lot.
 - b. A sandwich board sign may be double-sided with not more than eight square feet per side.
 - c. Sandwich board signs shall be located on or directly in front of a parcel and are not subject to normal setback requirements; but they shall be located so as not to interfere with pedestrian or vehicular circulation and safety.
 - d. Sandwich board signs shall be removed during non-business hours.

463 Temporary Signs. All temporary signs require a zoning permit issued by the Zoning Administrator in accordance with the following:

1. **Special Event Signs for Civic and Other Groups.** The Zoning Administrator shall have the authority to issue a permit for the display of non-illuminated signs or banners on a temporary basis to any civic, religious, fraternal, political, non-profit or charitable group. Such permit shall specifically state the location or locations of such signs, their duration, and responsibility for removal. In no case shall any temporary sign approved under this section be displayed for more than 45 days in any 12 month period. There shall be no more than two signs of a size not to exceed 32 square feet in total area including appendages.
2. **Banners.** A business is allowed one two sided banner, not to exceed 16 square feet per side. Banners must be affixed to building walls, existing freestanding sign structures or with their own support system. They shall not be affixed to roofs. Banners may not be lit. No banner may be displayed on any one lot for more than 45 days within any 12 month period.

464 Non-Conforming Signs. All non-conforming signs existing as of the date of adoption of this amendment are permitted as long as the non-conforming sign(s) are not moved, enlarged, or altered other than for normal maintenance and repair.

Section 470 ENVIRONMENTAL PROTECTION

- 471 **Streams and Water Courses.** No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of 75 feet measured horizontally from the normal high water mark of all perennial streams such as West River, Rock River, Baker Brook, Marlboro Branch, Smith Brook, Wardsboro Brook, Hunter Brook or Adams Brook.
- 472 **Wetlands.** No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least 50 feet in width from the delineated boundary of a Class 1 or Class 2 wetland as defined and regulated under the Vermont Wetland Rules, and as shown on the most recent *Vermont Significant Wetland Inventory Map for the Town of Newfane*.
- 473 **Dams.** The damming of a stream constitutes "land development" and therefore requires a zoning permit. No dams may be constructed on the West River, Rock River, Baker Brook, Marlboro Branch, Smith Brook, Wardsboro Brook, Hunter Brook or Adams Brook
- 474 **Steep Slopes.** No dwelling may be erected on land having a slope of greater than 25%.

Section 480 LIGHT AND GLARE

- 481 **Application.** To ensure appropriate lighting while minimizing its undesirable effects, the following general standards shall apply to all outdoor lighting in all commercial, industrial and multi-unit developments requiring site plan approval from the DRB, as well as new and replacement lighting in commercial, industrial and multi-unit properties.

482 General Standards.

1. Lighting shall be designed to adequately illuminate the site and parking areas without causing glare or excessive illumination on neighboring properties or streets. Glare from vehicle headlights shall be mitigated through location and design of egresses, landscaping and screening.
2. All outdoor light fixtures shall be shielded so that no direct light is projected above a horizontal plane passing through the light source.
3. Luminaires shall be placed not more than 16 feet above ground level and the maximum illumination at ground level shall not be in excess of .3 foot-candles.
4. Acceptable light sources are LED, metal halide, incandescent, neon tubing and fluorescent. All other light sources including any flickering or pulsing light are prohibited. Processes that create light flashes such as, but not limited to, electric arc welding, shall be confined to buildings or shielded to prevent either glare or flashes reflected from the sky.
5. Outdoor fixtures shall only be illuminated during the hours of operation for non-residential uses unless specifically approved by the DRB. Hours of operation shall include any time up to one hour before or after all employees and patrons or customers have vacated the premises. Inns and Bed and Breakfasts are considered open on a twenty four hour basis.
6. Lighting shall be located, shielded and maintained to prevent light trespass onto adjacent properties and public ways; measured at the boundary of the illuminated and adjacent property in excess of 0.1 foot-candles.
7. Electrical service to outdoor lighting fixtures shall be buried.

483 Exemptions to the Lighting and Glare Standards.

1. Lighting of the American flag.
2. Historic monuments and statues.
3. One, two, three and four-unit residential properties.
4. Municipal street lighting.
5. Emergency safety lighting.
6. Fixtures of 1650 lumens or less, which are equivalent to a 150-watt incandescent light bulb.

7. Decorative holiday lighting for a temporary period.
8. Security lighting controlled by sensors set to provide illumination for a maximum of 15 minutes.

484 Prohibited Lighting. Specifically prohibited by these Bylaws are all types of flashing, blinking, moving or apparently moving light sources intended to attract attention to a business location. Searchlights and laser beam lights for attracting attention are also prohibited.

485 Non-Conforming Luminaires.

1. Any luminaire lawfully in place prior to these Bylaws shall be allowed to remain indefinitely except in the case of change, repositioning or replacement described below.
2. Any significant change or replacement to an existing luminaire, such as lamp type, structural alteration, movement, repositioning, replacement or removal of the luminaire cover must meet the standards of these Bylaws.

Section 490 TEMPORARY USES

A temporary zoning permit may be issued by the Zoning Administrator for the uses listed below for a period of one year, conditioned upon written agreement by the owner to remove the structure or cease the use upon expiration of the permit, except where otherwise indicated below. If the permitted activities have not been completed within this period, a new permit for a temporary zoning permit shall be required. The combined maximum duration for such a use shall not exceed two years or until the project is complete, whichever is sooner. In no case shall a temporary zoning permit be issued for development in the Special Flood Hazard Area as defined in Article 6.

1. Construction and Sales Trailers. Temporary buildings, including but not limited to, construction and sales trailers, and storage of materials are permitted in conjunction with the construction of a building, buildings, subdivision, infrastructure, or development when limited to the duration of the construction. Temporary buildings may be erected after subdivision plat or site plan approval so long as zoning requirements are met for the lot on which the temporary buildings are placed and appropriate building permits have been obtained.
2. Temporary dwelling unit in conjunction with construction of a dwelling. The erection and occupancy of a temporary dwelling for up to twelve (12) months, which may be extended by the Zoning Administrator in six (6) month increments, is permitted during the construction of a dwelling on the same lot subject to obtaining a zoning permit.

Article 5
SPECIFIC USE STANDARDS

Section 500 APPLICABILITY

In addition to the review criteria in other sections of these Bylaws, the following standards shall apply to specified uses in all zoning districts in which such uses are allowed. Variances from these standards shall not be granted by the DRB.

Section 510 STATUTORY REQUIREMENTS

511 Accessory Dwelling Units.

1. Permitted Use. One accessory dwelling unit to a single-unit dwelling shall be considered a permitted use of the property. Such use shall require a permit issued by the Zoning Administrator in accordance with Section 210 and shall meet the following:
 - a. The property shall have sufficient wastewater capacity;
 - b. The floor area of the accessory dwelling unit shall not exceed 40% of the total habitable floor area of the single-unit dwelling or 1000 square feet, whichever is greater;
 - c. The accessory dwelling unit shall meet all applicable setback, coverage, and parking requirements as specified in these Bylaws.
2. The permit for an accessory dwelling unit shall clearly state that the dwelling is an accessory structure to a single-unit residence and shall be retained in same ownership.

512 Home Child Care.

1. Serving six or fewer children. In accordance with the § 4412(5) of the Act, a state registered or licensed child care home serving six or fewer children on a full-time basis, which is conducted within a single unit dwelling by a resident of that dwelling shall be considered a permitted use of the property. Such uses shall require a permit issued by the Zoning Administrator in accordance with Section 210.
2. Serving no more than six full-time and four part-time children. A child care home serving no more than six full-time and four part-time children, as defined in 33 V.S.A. § 4902(3)(A) shall be considered to constitute a permitted use of a property but requires site plan approval.

513 Group Homes/Residential Care Homes. In accordance with § 4412(1)(G) of the Act, state licensed or registered residential care or group homes for not more than

eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501 shall be considered to constitute a permitted single unit residential use of property, except that no such home shall be considered a permitted use if it is located within 1,000 feet of another existing or permitted group or residential care home.

514 Public Facilities. In accordance with § 4413 of the Act, the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended use or function:

1. State or community owned and operated institutions and facilities;
2. Public and private schools and other educational institutions certified by the Vermont Department of Education;
3. Churches and other places of worship, convents, and parish houses;
4. Public and private hospitals;
5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159; and
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

Section 520 CAMPGROUNDS

521 Applicability. A new or expanded campground for tents, travel trailers, or recreational vehicles, consisting of three or more camp sites on a single parcel of land, may be permitted subject to conditional use review by the Development Review Board and the following requirements:

522 Layout and Design Standards. Campgrounds shall be designed in accordance with the following standards:

1. An individual access driveway and parking area, suitably surfaced, shall be provided for each campsite. The parking area may be common.
2. Each site shall be at least 2,500 square feet in area, provided however that there shall be no more than 10 campsites per acre.
3. Each travel trailer and recreational vehicle site shall have a compacted gravel surface at least 25 feet in width.
4. Each site shall be located in a clean, dry and well-drained area.

5. The campground shall meet minimum setback requirements for the district in which it is located. Buffer areas of at least 50 feet in width along property boundaries, and 100 feet in width along public rights-of-way and waters, are to be maintained. Buffer areas shall not be included in the calculation of open space under Section 522.8. No building, camp site, parking or service area shall be located in a buffer area. Landscaping and/or fencing along property boundaries, within designated buffer areas, shall be provided as appropriate for screening, security, and privacy.
6. Each site shall have access to water and sewage disposal in compliance with regulations of the VT Department of Environmental Conservation.
7. All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the utilization of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established.
8. All campgrounds shall keep at least 25% of the total ground area for recreation or open space purposes.

Section 530 EXTRACTION OF EARTH RESOURCES

531 Applicability. The extraction or removal of topsoil, sand, gravel or other similar material for commercial purposes (except where incidental to any development lawfully undertaken in accordance with these regulations) may be permitted subject to conditional use approval (Section 212.5).

532 Application Requirements. An application to the DRB for review shall include, at a minimum, plans showing:

1. Existing grades, drainage and depth to water table;
2. Location of areas for on-site storage and/or processing of material;
3. The extent and magnitude of the proposed operation including proposed project phasing;
4. Erosion control measures to be employed throughout the operation; and
5. A site restoration plan that describes the measures to be used following the conclusion of operations, including finished grades and drainage patterns.

533 Review Criteria. In granting approval, the DRB shall also find that the proposed extraction operation meets the following:

1. The operation shall not:

- a. cause any hazard to public health and safety, or
 - b. have an undue adverse effect on neighboring properties, property values or public facilities and services, surface water and groundwater supplies, or natural, cultural, historic or scenic features.
2. Proper drainage and storm water control shall be provided during and after the completion of operations.
 3. The operation shall not result in an embankment with a slope steeper than one (1) foot vertical to two (2) feet horizontal upon completion of an area of work.
 4. The operation shall provide for restoration of the area including but not limited to necessary grading, drainage, replacement of loam or other suitable soil cover to support permanent vegetation and prevent soil erosion. Restoration of the site shall be carried out in phases, as excavation work is completed. The site restoration plan shall identify and define each phase of the site restoration process.
 5. In accordance with the Act, a performance bond, escrow account, or other form of surety acceptable to the Selectboard shall be required as a condition of approval to ensure that, upon completion of the operations, the site will be left in a safe, attractive, and useful condition in the interest of public safety and general welfare and in conformance with the site restoration plan.
 6. The operation shall not undermine any road or structure.
 7. Adequate vegetative buffers or other screening shall be retained at all times between the operation and abutting properties.

Section 540 HOME BASED OCCUPATIONS & HOME BUSINESSES

- 541 Applicability.** The following categories of home-based businesses are allowed in accordance with the associated standards.
- 542 Home Occupation.** In accordance with the § 4412(4) of the Act, no provision of these Bylaws shall prevent a person from using a minor portion of a dwelling and/or accessory structure for the conduct of an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the surrounding area or neighborhood. The Zoning Administrator shall determine whether the proposed use is a home occupation as defined by the following:
1. The home occupation is conducted on site by residents of the dwelling unit and no more than one non-resident employee at any one time.
 2. The home occupation occupies less than 50% of the floor area of the dwelling unit.

3. The home occupation does not involve the conduct of business with more than occasional on-site visits from clients or customers.
4. The home occupation does not involve the outside storage of materials or equipment that is uncharacteristic of a residential use.
5. The home occupation shall meet the parking requirements of Section 450.

543 Home Business. A home occupation which exceeds one or more of the standards set forth in Section 542 may be permitted as a home business with the approval of the Development Review Board as a conditional use in accordance with Section 212.5 and in accordance with the following provisions:

1. The home business occupies an area less than 50% of the floor area of a dwelling unit in either the dwelling unit or an accessory structure located on the same lot.
2. The home business is conducted by residents of the dwelling unit and involves not more than three non-resident employees at any one time.
3. Structures, storage, and parking facilities used for the Home Business shall not cover more than 45% of the lot area. This is not intended to limit areas associated with the residential use of the property.
4. Outside storage of materials, equipment, and vehicles shall be screened from the adjacent roads and properties.
5. The home business shall not have an undue adverse effect on the character of the residential area in which the dwelling is located.
6. No more traffic is generated than would normally be expected from a residential use in the neighborhood.
7. In the Rural District and Resource District only, contractors may operate a home business provided all equipment, vehicles, materials, and structures pertaining to the Home Business are fully screened from the public right-of-way and adjoining properties.
8. No more than seven employees of the business will be allowed to leave their vehicles on-site and/or pick up construction equipment to be used off-site.
9. Off-street parking conforms to the standards of Section 450.
10. The zoning permit clearly states that the use is limited to a home business, approved in accordance with the above provisions, which is accessory to the residential use and shall be retained in common ownership and management.

Section 550 MIXED USES

In designated districts, more than one compatible principal use may be permitted within a single building or on a single lot subject to conditional use approval (Section 212.5) and the following provisions:

1. Each of the proposed uses is an allowed use (either permitted or conditional) within the zoning district in which the mixed use is located.
2. The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum lot size, frontage and setback requirements. Regardless of the number of uses, the lot shall only need to meet the minimum lot size for the district in which it is located.
3. The mixed use meets all applicable general regulations under Article 4, including but not limited to sign and parking requirements.
4. The total amount of parking required for a mixed use shall be based on cumulative parking demand for each individual principal use unless a shared parking agreement is agreed to by two or more users who can demonstrate that their parking demands are at different times, and that meeting the requirements will not jeopardize landscaping features the DRB deems essential to the proposed development.
5. The entire cumulative development including structures, driveways, and parking facilities shall not cover more than 65% of the lot area.

Section 560 MANUFACTURED OR MOBILE HOME PARKS

561 Applicability. A new or expanded manufactured or mobile home park may be allowed in designated zoning districts subject to conditional use approval by the Development Review Board (Section 212.5) and the provisions of this section. The division of a lot into manufactured or mobile home park sites does not constitute a subdivision as set forth in the Newfane Subdivision Bylaws. All standards applicable to dwellings in the district within which the mobile home park is located shall apply equally to dwellings located within the park, unless otherwise specified below.

562 Siting Requirements. All manufactured or mobile home parks shall be sited on a lot that is:

1. A minimum of five acres in area; and
2. Served by a public or community water and wastewater system.

563 Application Requirements. In addition to the application information required under Section 205, the applicant for a manufactured or mobile home park shall also submit a site development plan that shows the following:

1. A boundary line survey of the proposed land to be developed as a manufactured or mobile home park.

2. The locations and dimensions of proposed streets, lots, and easements, with lots and streets identified by number and proposed name, respectively.
3. Designated manufactured or mobile home sites;
4. Existing and proposed manufactured or mobile home footprints, including existing buildings on adjoining lots within 100 feet of the boundaries of the manufactured or mobile home park;
5. Existing and proposed vehicle, bicycle, and pedestrian circulation, including access, park roads, pedestrian paths and parking areas;
6. Existing and proposed open space and common areas;
7. Existing and proposed infrastructure including water and wastewater systems, utilities, drainage and stormwater management systems, and associated easements or rights-of-way; and
8. A landscaping plan.

564 Design and Siting Standards.

1. No manufactured or mobile home park shall have an overall density greater than four dwelling units per acre. The manufactured or mobile home park may be developed using the cluster concept in which lots are not required to conform to the minimum lot size, frontage, and setbacks as required in Article 3, but must conform to the requirements of this section.
2. Each individual manufactured or mobile home shall be located on a site having a minimum width of 50 feet and a minimum area of 7,260 square feet. Each manufactured or mobile home site shall be clearly defined.
3. The manufactured or mobile home park shall meet all setback requirements for the district in which it is located. A landscaped buffer strip, not less than 20 feet in width, shall be provided along all property lines.
4. Each manufactured or mobile home, and associated accessory structures, shall be setback a minimum of 20 feet from adjoining sites and roadways.
5. Open space for recreation and playground purposes, occupying not less than 10 percent of the gross mobile home park area, shall be provided in a convenient location(s) for use by park residents. Such open space shall be suitably landscaped, equipped and furnished, and screened or protected from parking and service areas.
6. Access to all lots within a manufactured or mobile home park shall be from interior streets or drives; manufactured or mobile homes shall not be placed in such a manner that continuous access is provided along existing streets.

7. There shall be at least two parking spaces per manufactured or mobile home, both of which shall be located on the mobile home site. Common parking areas for the use of residents may also be provided.

Section 570 PONDS

571 Purpose. To protect the lives and property of citizens, the infrastructure of the community, and the health of the natural environment, the construction of ponds shall require a zoning permit. The purpose of regulating said construction is to reduce the possibility of failure from improper design or construction, to minimize potential flood damages incurred to upstream properties by the storage of flood waters, and to minimize the damages caused by the sudden release of stored waters from a failure of the dam or intentional rapid draining of the impoundment.

572 General Requirements. The creation of a pond or other water impoundment constitutes land development and requires a zoning permit as follows:

1. A pond larger than 800 square feet in surface area shall require conditional use review.
2. Any pond that will impound, or be capable of impounding more than 500,000 cubic feet of water must receive a permit from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 43.
3. If the project necessitates any work in a stream, a stream alteration permit or other approval is required from the Vermont Department of Environmental Conservation in accordance with 10 V.S.A. Chapter 41 and/or the Vermont Department of Fish and Wildlife in accordance with 10 V.S.A. Chapter 111.
4. If the project has an effect on wetlands; rare, threatened, or endangered species; or the passage of fish; permits from other state or federal authorities may be required.
5. Any pond involving the impoundment of water through the creation of an embankment, berm or other structure that exceeds the natural grade must provide documentation from a civil or structural engineer licensed in Vermont of the likely results of catastrophic failure of the impoundment. This exercise is not to evaluate the likelihood of failure but to examine worst case scenarios (terrorism, major accident, extreme negligence, etc.).
6. All impoundments must have an emergency spillway, designed by a civil or structural engineer licensed in Vermont, capable of passing flows that exceed what the control structure is capable of handling.
7. Any pond, impoundment of a pond or portion of a pond or impoundment, located within an area of special flood hazard, is subject to Article 6 of these Bylaws.

573 Review Criteria. All ponds and other impoundments larger than 800 square feet in surface area are subject to conditional use review. In granting approval, the DRB shall

find that the proposed pond is located where failure of the embankment, berm, or other structure would not cause:

1. Loss of life;
2. Injury to persons or livestock;
3. Damage to residences, commercial or industrial buildings;
4. Damage to roads, bridges, culverts, railroads or other infrastructure; or
5. Interruptions of public utilities.

574 Conditions of Approval. The DRB may require, as a condition of approval, the applicant show proof of receipt of any required state or federal permits prior to construction. Upon issuance of conditional use approval, the ZBA shall duly note that the owner of the property is responsible for the pond's safety and liable for its failure if he or she does not maintain, repair, or operate the pond in a safe and proper manner.

Section 580 SMALL WIND ENERGY FACILITIES

581 Applicability. Small wind energy systems are allowed on any lot in any district as an accessory use subject to the limitations in this section.

1. A small wind energy system with one tower with a height of less than 100 feet shall be considered a permitted use subject to site plan review under Section 212.6 and the standards in Section 582.
2. A small wind energy system with one or more towers with tower heights of 100 feet or more shall be considered a conditional use and be subject to conditional use review (Section 212.5). The standards in Section 582 shall also apply. In addition to the conditional use standards, the Development Review Board shall find that:
 - a. the requested height of the tower does not exceed what is necessary to provide efficient operation of the system; and
 - b. all reasonable measures have been taken to minimize the visual impact of the system.

582 Standards for Small Wind Energy Systems. All small wind energy systems shall conform to the following standards:

1. A wind tower for a small wind system shall be setback a distance equal to one-hundred fifty percent (150%) or greater of the tower height from:
 - a. Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;

- b. Any overhead utility lines; and
- c. All property lines.

583 Expiration and Abandonment.

1. Permit Expiration. A permit issued pursuant to this section shall expire if the small wind energy system is out-of-service or otherwise unused for a continuous 12-month period.
2. Abandonment. A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the Owner provides information that demonstrates the small wind energy system has not been abandoned.

If a small wind energy system is determined to be abandoned, the owner of the small wind energy system shall remove the entire wind energy system at the Owner's sole expense within three months of receipt of Notice of Abandonment. If the owner fails to remove the system, the Zoning Administrator may pursue a legal action to have the small wind energy system removed at the Owner's expense

ARTICLE 6
FLOOD AND FLUVIAL EROSION HAZARD REGULATIONS

Section 600 AUTHORIZATION AND PURPOSE

601 Statutory Authorization and Effect

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 § 4411, § 4412, § 4414, § 4424, and 24 V.S.A. Chapter 59, there are hereby established Bylaws for areas at risk of flood damage in the Town and Village of Newfane, Vermont (hereinafter referred to together as “Town of Newfane”). Except as additionally described below, all administrative procedures follow town procedures under 24 V.S.A. Chapter 117.

602 Statement of Purpose

It is the purpose of Article 6 of these Bylaws to:

1. Implement the goals, policies, and recommendations in the current town plan;
2. To protect health, safety and welfare of the public, and to avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
3. Ensure that the selection, design, creation, and use of development in flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property in a flood hazard area and does not impair stream equilibrium, floodplain services, or the river corridor; and
4. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, 24 V.S.A. Chapter 117 § 4424, and the local hazard mitigation plan; and make the Town of Newfane, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

603 Other Provisions

A. Precedence of Article and Greater Restrictions

The provisions of Article 6 of these Bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction, the provisions here shall take precedence. If there is any conflict between the provisions of these Bylaws, the more restrictive shall apply.

B. Validity and Severability

If any portion of Article 6 of these Bylaws is held unconstitutional or invalid by a competent court, the remainder of these Bylaws shall not be affected.

C. Warning and Disclaimer of Liability

Article 6 of these Bylaws does not imply that land outside of the areas covered by these Bylaws will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Newfane, or any town official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

604 Lands to Which these Regulations Apply

A. Identification

The Regulated Flood Hazard Areas include:

1. The River Corridors and Small Stream 50-foot setback as published by the Vermont Agency of Natural Resources on the Natural Resources Atlas as the Statewide River Corridor Map Layer, and refinements to that data based on field-based assessments. On streams with a watershed size between half a square mile and two square miles, the standards in these Bylaws apply also to a Small Stream Setback area measured as 50-feet from the top of the stream bank or slope. Together these areas are referred to as the “River Corridor” in these Bylaws and, pursuant to 24 V.S.A. Chapter 117 § 4424, are hereby adopted by reference and declared to be part of these regulations¹; and
2. The Special Flood Hazard Area (SFHA) in and on the most current Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs), issued by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations. This includes all digital data developed as part of the FIS².

These regulations shall apply to the above referenced areas (hereafter called “Regulated Flood Hazard Areas” unless referenced specifically) in the Town of Newfane, Vermont. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district.

¹ Official River Corridor Maps are available on the Vermont Agency of Natural Resources online Natural Resources Atlas: <https://anrmaps.vermont.gov/websites/anra5/>

² FIS and FIRMs are available digitally on FEMA’s online Map Service Center: <https://msc.fema.gov/portal>

B. Interpretation

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, he or she may appeal to the Development Review Board. The burden of proof shall be on the appellant. A Letter of Map Amendment from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, he or she may appeal to the Development Review Board. The burden of proof shall be on the appellant. A letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

C. Description of FEMA Identified Special Flood Hazard Areas

1. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway (AE with Floodway) and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the municipality during the occurrence of the base flood discharge.
2. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - a. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
3. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available.

In lieu of the above, the town may require the applicant to determine the base flood elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

4. The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

D. Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Development Review Board where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a municipality shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See Section 608.D of these Bylaws for situations where FEMA notification is required.

Administrative revisions to the River Corridor may be made at the request of the municipal legislative body to the Agency of Natural Resources per the procedure outlined in the most recent *Vermont DEC Flood Hazard Area and River Corridor Protection Procedures*.

605 Administration

A. Designation of the Floodplain Administrator

The Zoning Administrator is hereby appointed to administer and enforce these Bylaws and is referred to herein as the Zoning Administrator or ZA. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.

Administration of any part of these regulations by another entity shall not relieve the municipality of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. § 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Chair of the Newfane Planning Commission.

B. Duties and Responsibilities of the Floodplain/Zoning Administrator

1. The Zoning Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable local codes and bylaws. Within 30 days after a local land use permit has been issued or within 30 days of the issuance of any notice of violation, the FA shall:
 - a. Deliver the original or a legible copy of the permit, or notice of permit, and any approvals to the town clerk for recording in the land records as provided in 24 V.S.A. § 1154(a), and § 4449;
 - b. File a copy of the permit and any approvals in the town office in a location where all town land use permits shall be kept; and,
 - c. The FA may charge the applicant for the cost of the recording fees as required by law.
2. Prior to the issuance of any permit, the Zoning Administrator shall inform any person applying for a permit or authorization that the person should contact the regional permit specialist employed by the Agency of Natural Resources in order to assure timely action on any other related state or federal permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state and federal permits. The applicant shall provide the Zoning Administrator with a copy of the ANR Permit Navigator Sheet for awareness of what other permits are required.
 - a. Per 24 V.S.A. § 4424, a permit for development outside of the SFHA may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at ANR.
 - b. For development within the FEMA Identified SFHA, no permit shall be issued until all other necessary government permits required by state and federal laws have been obtained. Additionally, a permit can be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
3. Within three days following the issuance of a permit, the ZA shall:
 - a. Deliver a copy of the permit to the Listers of the town; and

- b. Post a copy of the permit in at least one public place in the town until the expiration of 15 days from the date of issuance of the permit.
4. During the construction period, the Zoning Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable local laws and bylaws. He/she shall make as many inspections before, during and upon completion of the work as are necessary, including, but not limited to, once the site has been staked out or demarcated but before actual start of construction, after the foundation is completed and at construction completion.
5. In the discharge of his/her duties, the Zoning Administrator shall have the authority to enter any building, structure, premises or development in the Regulated Flood Hazard Area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of these Bylaws.
6. In the event the Zoning Administrator discovers that the work does not comply with the permit application or any applicable laws and bylaws, or that there has been a false statement or misrepresentation by any applicant, the Zoning Administrator shall revoke the permit and report such fact to the Development Review Board for whatever action it considers necessary.
7. The Zoning Administrator shall maintain all records associated with the requirements of these Bylaws including, but not limited to:
 - a. All permits issued in areas covered by these Bylaws;
 - b. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the municipality) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Areas;
 - c. All flood proofing and other certifications required under this regulation;
 - d. All decisions of the Development Review Board (including conditional use decisions, variances and violations) and all supporting findings of fact, conclusions and conditions;
 - e. Finished construction elevation data;
 - f. Inspection documentation; and
 - g. Enforcement documentation.
8. The Zoning Administrator is the official responsible for submitting a biennial report to the FEMA concerning community participation in the National Flood Insurance Program.

C. Public Notice

1. Prior to the issuance of a permit, proposals needing conditional use review, nonconforming structures and uses review, or approval for a variance, must have a warned public hearing as per 24 V.S.A. Chapter 117 § 4464. A copy of the application shall be submitted to VT Agency of Natural Resources (ANR) at least 30 days prior to the date of the public hearing. Public notice of the hearing shall be provided not less than 15 days prior to the date of the public hearing by all the following:
 - a. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the town affected;
 - b. Posting of the same information in three or more public places within the town including posting within view from the public right-of-way nearest to the property for which an application is made;
 - c. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way and, in any situation in which a variance is sought regarding setbacks from a state highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
 - d. For hearings on subdivision plats located within 500 feet of a town boundary, written notification to the clerk of the adjoining town.
2. Public notice of all other types of development review hearings, including site plan review shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
 - a. Posting of the date, place and purpose of the hearing in three (3) or more public places within the affected town; and
 - b. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way and, in any situation in which a variance is sought regarding setbacks from a highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.
3. The applicant shall bear the cost of the public warning and notification of adjoining landowners and interested parties as defined per 24 V.S.A. Chapter 117 § 4465(b).

4. Per 24 V.S.A. Chapter 117 § 4464(a)(5), no defect in the form or substance of any required public notice under this shall invalidate the action of the Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Development Review Board or the Environmental Court, the action shall be remanded to the Development Review Board to provide new posting and notice, hold a new hearing, and take a new action.

D. Decisions

The ZA shall act within 30 days of receipt of a complete application, to approve or deny the application, or refer the application to the Development Review Board. Applications that cannot be approved in compliance with these Bylaws shall be denied. The decision shall be issued in writing and include a statement of the factual bases on which the conclusions were made. Decisions of the ZA can be appealed as per these Bylaws and 24 V.S.A. Chapter 117 § 4465-4472. If the ZA fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

E. Appeals

An interested party may appeal any decision or act taken by the Zoning Administrator in any town by filing a notice of appeal with the secretary of the Development Review Board of that town or with the clerk of that town if no such secretary has been elected. This notice of appeal must be filed within 15 days of that decision or act, and a copy of the appeal shall be filed with the Zoning Administrator. The Development Review Board shall set a date and place for a public hearing of an appeal within 60 days of the filing of the notice of appeal and shall mail the appellant a copy of that notice not less than 15 days prior to the hearing date. Hearings on appeals are governed per 24 V.S.A. Chapter 117 § 4468. Decisions on appeals are governed per 24 V.S.A. Chapter 117 § 4464(b).

1. The Development Review Board shall consider comments from the NFIP Coordinator at ANR. The Development Review Board may recess the proceedings on any application pending submission of additional information. The Development Review Board should close the evidence promptly after all parties have submitted the requested information, adjourn the hearing, and may deliberate prior to issuing its decision.
2. Decisions of the Development Review Board shall be issued in writing within 45 days after the adjournment of the final hearing, and failure of the Development Review Board to issue a decision within this period shall be deemed approval and shall be effective on the 46th day. Decisions shall be in writing and shall be sent by certified mail to the applicant and the appellant. Copies of the decision shall also be mailed to every person or body appearing and having been heard at a hearing. The decision will include a notice that an interested person may appeal the decision to the Environmental Court as per 24 V.S.A. Chapter 117 § 4471.

3. Decisions by the Development Review Board shall include a statement of the factual basis on which the Development Review Board has made its conclusions regarding how the proposed development will meet the development standards, and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided.
4. In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of these Bylaws and the town plan then in effect. Development Review Board decisions shall be conditioned to assure that all necessary permits must be also received from those government agencies from which approval is required by Federal, State or local law for the approval to be valid. The Development Review Board may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the legislative body of the town to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project.

NOTE: Granting of an appeal will not relieve a landowner or a town from the obligation to comply with the minimum requirements of the National Flood Insurance Program. Landowners and municipalities that fail to meet the Program's minimum requirements, notwithstanding any appellate decision to the contrary, are in violation of the National Flood Insurance Program and remain subject to the accompanying penalties.

F. Permit Validity

Each permit issued shall:

1. Contain a statement of the period of time within which an appeal may be filed;
2. Require posting of a notice of permit on a form prescribed by the town within view from the public right-of-way most nearly adjacent to the subject property for not less than 15 days after issuance, which is the appeal filing period.
3. Not take effect until 16 days after issuance, or in the event that a notice of appeal of a decision by the ZA is properly filed, no such permit shall take effect until adjudication of that appeal by the Development Review Board is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until adjudication by the environmental court; and,
4. Be valid for a period of two years after issuance.

G. Changes

After the issuance of a permit, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Administrator. If changes are deemed necessary, requests for such change shall be in writing, and shall be submitted by the applicant to the Zoning Administrator for consideration. The ZA shall determine if the change requires a new permit application, or an amendment can be made to the existing permit. The ZA may require the applicant to hire a professional engineer, or other professional of demonstrated qualifications, to determine if the change will cause any change to the Base Flood Elevation, but that may not be the only consideration taken by the ZA in determining if a new application is required.

H. Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the permit. Work shall also be completed within twenty-four (24) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Zoning Administrator.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Zoning Administrator to approve such a request and the original permit is compliant with the Bylaw & FIRM/FIS in effect at the time the extension is granted.

606 Permit Application Guidelines

A. Application Submission Requirements

1. Applications for development in a Regulated Flood Hazard Area shall be made, in writing, to the Zoning Administrator on forms supplied by the Town of Newfane. Such application shall include:

- a. The name and contact information for the owner of the property, including any agents authorized to act on their behalf;

- b. A thorough description of the proposed development;
 - c. General location map including the address of the property, tax parcel ID, relative locations of the existing development and the nearest public road;
 - d. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, River Corridors and 50-foot stream setbacks, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
 - e. Three copies of the application, including one to be forwarded to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Program; and,
 - f. The appropriate fee as determined by the Selectboard.
2. If any proposed construction or development is located entirely or partially within any FEMA defined Special Flood Hazard Area or Town Identified Flood Hazard Area, applicants for Permits shall provide all the necessary information listed below, in addition to that mentioned above in Section 606.A(1), in sufficient detail and clarity to enable the Zoning Administrator to determine that:
- a. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and bylaws;
 - b. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - c. adequate drainage is provided so as to reduce exposure to flood hazards;
 - d. structures will be anchored to prevent floatation, collapse, or lateral movement;
 - e. building materials are flood-resistant;
 - f. appropriate practices that minimize flood damage have been used; and
 - g. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
3. If any proposed construction or development is located entirely or partially within any FEMA defined Special Flood Hazard Area or Town Identified Flood Hazard

Area, applicants for Permits shall provide the following data and documentation, in addition to that mentioned above in Section 606.A(1) and (2):

- a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood;
 - b. detailed information concerning any proposed floodproofing measures and corresponding elevations;
 - c. document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development;
 - d. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any Special Flood Hazard Area (See Section 604.C of these Bylaws), when combined with all other existing and anticipated development, will not cause any increase in the base flood elevation; and
 - e. If a Vermont Agency of Natural Resources Permit Navigator Sheet was completed and submitted to ANR, this shall also be included in your application to the Town. The ANR Permit Navigator Sheet is a tool that identifies all State and Federal agencies from which permit approval *may* be required for the proposal. Regardless of whether a Permit Navigator Sheet is completed, all required state and federal permits shall be submitted to the ZA and attached to the permit before work can begin in any FEMA defined Special Flood Hazard Area.
4. For applicants seeking conditional use approval, approval under nonconforming structures and uses, or a variance, for development within any Regulated Flood Hazard Area, the following also need to be provided, in addition to that mentioned above in Section 606.A(1), (2) and (3):
- a. A list of abutters names and mailing addresses;
 - b. A statement of purpose and need for the proposed development;
 - c. A description of the alternatives considered to the proposed development, including alternate locations on the parcel or site, especially outside of the hazard area;
 - d. Such pertinent information as identified in the regulations or deemed necessary by the Development Review Board for determining the suitability of the proposed development for the site;

- e. For a variance, then the application must include responses to the regulations set forth in 24 V.S.A. §4469, and CFR 60.6 (only if located in the FEMA Identified SFHA), and Section 610 of these Bylaws;
 - f. Copies of the application sufficient for the Development Review Board members, the State National Flood Insurance Program Coordinator, and additional parties such as the VT DEC Stream Alteration Engineer and adjacent municipalities if affected under Section 605.C.1(d) of these Bylaws; and,
 - g. Any additional fees as required by the Selectboard.
5. It is the responsibility of the applicant to provide material necessary for the Zoning Administrator, Development Review Board, and any other designated Town official, to fully understand the development proposal and to be able to make appropriate determinations using the data and materials provided by the applicant. Costs incurred for the development of application materials are the responsibility of the applicant.

B. Referrals

1. Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. Chapter 117 § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at ANR.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, applicant shall provide the adequate number of copies of the application for the Zoning Administrator to submit copies to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at ANR.

607 Development in Regulated Flood Hazard Areas

A. Permit Requirement

A permit is required from the Zoning Administrator (ZA) for all proposed construction and development in all areas defined in Section 604.A. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to town

jurisdiction in the designated hazard areas shall meet all relevant criteria in Section 608 of these Bylaws. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at ANR. For development within the SFHA, no permit shall be issued until all other necessary government permits required by state and federal laws have been obtained.

B. Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area, where outside of the floodway and outside of the River Corridor, and meeting the Technical Provisions in Section 608 of these Bylaws, require only an administrative permit from the ZA:

1. Non-substantial improvements of less than a 500 square foot footprint to existing residential and non-residential structures, providing the improvements do not decrease the pre-existing distance between the unaltered structure and the top of bank;
2. Accessory structures built in accordance with Section 608.A.8 of these Bylaws;
3. Development related to on-site septic or water supply systems in accordance with Section 608.A.11 and 13 of these Bylaws;
4. Building utilities in accordance with relevant Technical Provisions in Section 608 of these Bylaws;
5. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater;
6. Stream crossings in the SFHA that do not require Stream Alteration Permits, span top-of-bank to top-of-bank, and are to be used exclusively for recreational uses;
7. At-grade parking for existing buildings; and,
8. Storage or parking of recreational vehicles, not to exceed 180 days, provided they are fully licensed and ready for highway use, and comply with all relevant sections of the Zoning Bylaws.

C. Prohibited Development in Regulated Flood Hazard Areas

For the purposes of review under these regulations, the following development activities are prohibited in any Regulated Flood Hazard Area:

1. New residential or non-residential structures (including the placement of new manufactured homes) that do not meet the Technical Provisions in Section 608;

2. Any improvement to an existing structure in the River Corridor that decreases the pre-existing distance between the unaltered structure and the top of bank;
3. Storage or junk yards;
4. New fill, except as necessary to elevate structures above the base flood elevation, and placed in accordance with Section 608.A.16 of these Bylaws;
5. Accessory structures in the Floodway;
6. Critical facilities in all areas affected by mapped flood hazards; and,
7. All development not otherwise exempted, permitted, or conditionally permitted.

D. Conditional Use Review

Conditional use review and approval by the Development Review Board, is required prior to the issuance of a permit by the ZA for the following proposed development, which shall be undertaken in accordance with all relevant technical provisions described in Section 608.A of these Bylaws:

1. Substantial improvement, elevation, relocation, or flood-proofing of an existing residential or non-residential structure that does not expand the footprint of the existing structure more than 500 square feet and does not decrease the pre-existing distance between the unaltered structure and the top of bank;
2. Any improvement to an existing residential or non-residential structure that does expand the footprint of the existing structure more than 500 square feet and does not decrease the pre-existing distance between the unaltered structure and the top of bank;
3. Non-substantial improvement of less than a 500 square foot footprint to an existing residential or non-residential structure in the River Corridor that does not decrease the pre-existing distance between the unaltered structure and the top of bank;
4. New or replacement storage tanks for existing structures placed in accordance with Section 608.A.17, 19 and 24 of these Bylaws;
5. Any improvements to existing residential and non-residential structures in the floodway;
6. Grading, excavation, or the creation of a pond;
7. Improvements to existing roads or streets, in accordance with Section 608.A.14 of these Bylaws;

8. Construction or repair of stream crossing structures (bridges and culverts), associated transportation and utility networks, dams, dry hydrants, and other functionally dependent uses that must be placed in or over rivers and streams that are located in the SFHA and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder;
9. Subdivision of land in the SFHA or River Corridor in accordance with Section 608.A.15 of these Bylaws;
10. Accessory structures in the River Corridors, of 500 square feet or less, and in accordance with Section 608.A.8 of these Bylaws;
11. Storage or parking of recreational vehicles in the River Corridor, not to exceed 180 days, provided they are fully licensed and ready for highway use, and comply with all relevant sections of the Zoning Bylaws.
12. Building utilities placed in accordance with the relevant standards of these Bylaws;
13. Power generation Facilities and telecommunications infrastructure not otherwise regulated by 30 V.S.A. Chapter 5 § 248 or § 248a; and
14. At-grade parking for existing buildings in the River Corridor.

E. Exempted Activities

1. The removal of a building or other structure in whole or in part, in conjunction with an approved site stabilization plan³;
2. Previously Developed Sites:
 - a. Pre-existing development may continue.
 - b. A pre-existing building or developed site may be used for any purpose allowed in the zoning district.
3. Maintenance of existing roads, parking areas and stormwater drainage, not including any expansions;
4. Maintenance of existing trails, and the expansion or development of new trails that do not include any type of channel management or stabilization;
5. Maintenance of existing bridges, culverts, and channel stabilization activities, not including any expansions;

³ Approval could come from Army Corps of Engineers, Agency of Natural Resources, a grant funding entity, or the Floodplain Administrator.

6. Construction or repair of stream crossing structures (bridges and culverts), associated transportation and utility networks, dams, dry hydrants, and other functionally dependent uses that must be placed in or over rivers and streams that are located within the River Corridor and not in the SFHA, and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder;
7. Stream crossings in the River Corridor that do not require Stream Alteration Permits, span top-of-bank to top-of-bank, and are to be used exclusively for recreational uses;
8. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
9. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices. Prior to the construction of farm structures, the farmer must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

F. Nonconforming Structures and Uses

The Development Review Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a Regulated Flood Hazard Area provided that:

1. The proposed development is in compliance with all the Technical Provisions in Section 608 of these Bylaws;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed in place only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel, provided it is outside of the Floodway. A nonconforming structure cannot be rebuilt in the floodway. The lowest floor of the reconstructed residential structure must be rebuilt with the lowest floor elevated to two feet or more above the base flood elevation, and a non-residential structure must be floodproofed according to Section 608.A.4 of these Bylaws, and the structure must otherwise comply with all requirements of the National Flood Insurance Program and these Bylaws;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for not less than 12 months;
4. An individual manufactured home, or lot, that is vacated in an existing manufactured home park shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in these Bylaws; and

5. A nonconformity, located in a Regulated Flood Hazard Area, that the town deems to be a public nuisance or public health risk or hazard may be abated or removed as per 24 V.S.A. Chapter 117 § 4412.7(C).

G. Small Stream Setbacks

On previously developed lots, natural woody vegetation will not have to be re-established on areas within the riparian setback maintained as lawns or gardens. However, the maintenance or establishment of forested vegetation within designated small stream setbacks and mapped River Corridors is strongly encouraged. Undisturbed forested setbacks serve to protect habitat and quality of waterways. Vegetation removal and management, including the control of invasive species, within setbacks should be done following accepted management practices such as those listed on vtinvasives.org⁴.

| | Activity | Hazard Zone | | |
|---|--|---------------------------|------------------------------------|-----------------|
| | | Special Flood Hazard Area | Floodway (with no increase to BFE) | River Corridors |
| | P Permitted C Conditional Review X Prohibited A Exempt | | | |
| 1 | New Structures (including new manufactured homes) | X | X | X |
| 2 | Non-substantial improvement of less than 500 sq ft to an existing structure that is no closer to waterway (If within accepted River Corridor infill or shadowed area) | P | C | C |
| 3 | Substantial improvement to a max of an additional 500 sq ft to an existing structure that is no closer to waterway (If within accepted River Corridor infill or shadowed area) | C | C | C |
| 4 | Any improvement of more than 500 sq ft to an existing structure that is no closer to waterway (If within accepted River Corridor infill or shadowed area) | C | C | C |
| 5 | Any improvement to an existing structure that decreases pre-existing distance to waterway | C | C | X |
| 6 | Accessory structure ⁵ not meant for human habitation and not larger than 500 sq ft | P | X | C |
| 7 | Accessory structure ⁵ built human habitation and/or larger than 500 sq ft | X | X | X |
| 8 | On-site septic and water supply systems | P | X | C |

⁴ Questions regarding what is an acceptable vegetation management practice should be directed to the Vermont Agency of Natural Resources Department of Forest, Parks and Recreation.

⁵ See appropriate Technical Provisions in these Bylaws.

| | Activity | Hazard Zone | | |
|----|--|---------------------------|------------------------------------|-----------------|
| | | Special Flood Hazard Area | Floodway (with no increase to BFE) | River Corridors |
| | P Permitted C Conditional Review X Prohibited A Exempt | | | |
| 9 | At-grade parking for existing buildings | P | C | C |
| 10 | Open fencing and elevated signage | P | C | C |
| 11 | RV parking, fully licensed and ready for highway use | P | X | C |
| 12 | RV parking, unlicensed or not drivable | X | X | X |
| 13 | Storage or junk yards | X | X | X |
| 14 | Fill ⁵ as needed to elevate existing structures | C | C | C |
| 15 | Fill | X | X | X |
| 16 | Critical facilities | X | X | X |
| 17 | New or replacement storage tanks | C | X | C |
| 18 | Grading, excavation or creation of a pond | C | C | C |
| 19 | Maintenance of existing road/bridge/culvert/channel stabilization, not including expansions | A | A | A |
| 20 | Road improvements/expansions | C | C | C |
| 21 | Exclusively recreational stream crossings that do not require a SAP and span top-of-bank | P | P | A |
| 22 | Bridges, culverts, channel management, and functionally dependent uses ⁵ that have coverage under a SAP | C | C | A |
| 23 | Subdivision of land ⁵ | C | C | C |
| 24 | Trail maintenance and expansion without stabilization | A | A | A |
| 25 | Building utilities ⁵ | P | C | C |
| 26 | Power generation or telecom infrastructure and facilities not otherwise regulated by 30 V.S.A. Chapter 5 248 or 248a | C | X | C |
| 27 | Nonconforming structure repair, relocation, replacement or enlargement | C | C | C |
| 28 | Removal of structure in whole or part ⁶ | A | A | A |
| 29 | Silvicultural activities ⁷ | A | A | A |
| 30 | Agricultural activities ⁸ | A | A | A |
| 31 | All development not otherwise noted | X | X | X |

⁶ In conjunction with an approved stabilization plan.

⁷ Conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practice.

⁸ Conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices (RAP).

608 Technical Provisions

The criteria below are the minimum standards for any development which is permitted (P), exempt (A), approved via conditional use approval (C), or granted via variance in Regulated Flood Hazard Areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

A. Regulated Flood Hazard Area Development Standards

1. *All development* shall be:
 - a. Reasonably safe from flooding and fluvial erosion risk;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage⁹;
 - d. Constructed by methods and practices that minimize flood damage;
 - e. Constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. Adequately drained to reduce exposure to flood hazards; and
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes.
2. *Within any SFHA*, no development shall be permitted without first determining the base flood elevation and demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachments in the municipality, will not cause any increase in the BFE. New development that proposes to displace floodwater storage in the SFHA must provide compensatory storage to offset the impacts of any increase in the extent or level of floodwaters during peak flows up to and including the base flood discharge. This demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and is certified by a licensed professional engineer.
3. *New Residential Structures or Residential Structures to be substantially improved* in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least two feet above base flood elevation (the Design Flood Elevation or “DFE”). This must be documented in as-built condition, with a FEMA Elevation Certificate.

⁹ Refer to *FEMA Technical Bulletin 2-9: Flood Resistant Materials Requirements*

4. *Non-residential structures in the SFHA to be substantially improved shall:*
 - a. Meet the elevation standards for Residential Structures outlined above in Section 608.A3 of these Bylaws; or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for flood-proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
5. *Fully enclosed areas below grade on all sides* (including below grade crawlspaces and basements) are prohibited.
6. *Fully enclosed areas that are above grade on all sides*, but below the lowest floor, below BFE and/or are subject to flooding, shall:
 - a. Be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed and constructed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: (1) A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; (2) The bottom of all openings shall be no higher than one foot above grade; and (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. *Recreational vehicles* must be fully licensed and ready for highway use.
8. *Accessory structures*
Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
 - a. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
 - b. floor area shall not exceed 500 square feet.

- c. the structure will have a low damage potential.
 - d. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
 - e. power lines, wiring, and outlets will be elevated to the DFE.
 - f. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
 - g. sanitary facilities are prohibited.
 - h. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
9. If a variance is obtained according to Section 610 of these Bylaws, *all manufactured homes, and any improvements thereto*, shall be:
- a. placed on a permanent foundation,
 - b. elevated so that the lowest floor of the manufactured home is at least to the DFE,
 - c. anchored to resist flotation, collapse, or lateral movement, and
 - d. have all ductwork and utilities including HVAC/heat pump elevated to the DFE.

10. *Historic Structures*

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in these Bylaws, must comply with all bylaw requirements that do not preclude a structure or district's continued historic designation. Documentation that a specific Bylaw requirement will cause removal of the structure, or district that the structure lies within, from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from bylaw requirements will be the minimum necessary to preserve the historic character and design of the structure and/or district.

11. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.

12. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
13. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
14. *Streets* finished elevation shall be no more than one (1) foot below the base flood elevation.
15. *Subdivisions, Manufactured Home Parks, and Planned Unit Developments* must be accessible by dry land access outside the special flood hazard area. All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in FEMA Identified SFHA's where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant. If such a subdivision is proposed in a flood prone area, assure that:
 - a. Such proposal minimizes flood damage;
 - b. Is proposed to be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - c. Adequate drainage is provided to reduce exposure to flood hazards.
 - d. New parcels created by subdivision require a reasonable development envelope that conforms to all natural hazard and dimensional standards in these Bylaws without requiring a variance.
16. If *Fill* is used to elevate structures above the base flood elevation, it shall:
 - a. extend laterally at least fifteen (15) feet beyond the building line from all points;
 - b. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
 - c. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 - d. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Zoning Administrator; and

- e. be used to the extent to which it does not adversely affect adjacent properties.
 - f. Fill shall be inspected and approved by the ZA or a professional engineer prior to placement of any structure atop fill.
17. *Storage* of all materials that are buoyant, flammable, explosive or in times of flooding, could be injurious to human, animal, or plant life, shall be stored at or above the DFE or floodproofed to the maximum extent possible, including being firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
18. *Existing residential and non-residential buildings, including manufactured homes, to be substantially improved in Zone AO* shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.
19. *Anchoring*
- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - b. All air ducts, large pipes, storage tanks, and other similar objects or components located below the base flood elevation shall be securely anchored or affixed to prevent flotation.
20. *Floors, Walls and Ceilings*
- a. Wood flooring used at or below the DFE shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
 - b. Plywood used at or below the DFE shall be of a "marine" or "water-resistant" variety.
 - c. Walls and ceilings at or below the DFE shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
 - d. Windows, doors, and other components at or below the DFE shall be made of metal or other "water-resistant" material.
21. *Paints and Adhesives*
- a. Paints and other finishes used at or below the DFE shall be of "marine" or "water-resistant" quality.

- b. Adhesives used at or below the DFE shall be of a "marine" or "water-resistant" variety.
- c. All wooden components (doors, trim, cabinets, etc.) used at or below the DFE shall be finished with a "marine" or "water-resistant" paint or other finishing material.

22. *Electrical Components*

Electrical distribution panels shall be at or above the DFE. Separate electrical circuits shall serve lower levels and shall be dropped from above.

23. *Equipment*

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the DFE.

24. *Fuel Supply Systems*

All gas and oil supply systems, including venting, must be elevated to the DFE and securely anchored.

B. Floodway Areas

- 1. Encroachments or development above grade and less than two feet above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
 - a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- 2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

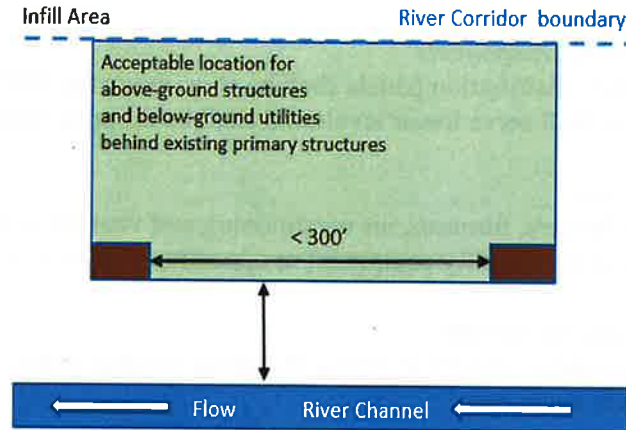
C. River Corridors

The criteria below are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence. New development within the River Corridor is prohibited except as identified below.

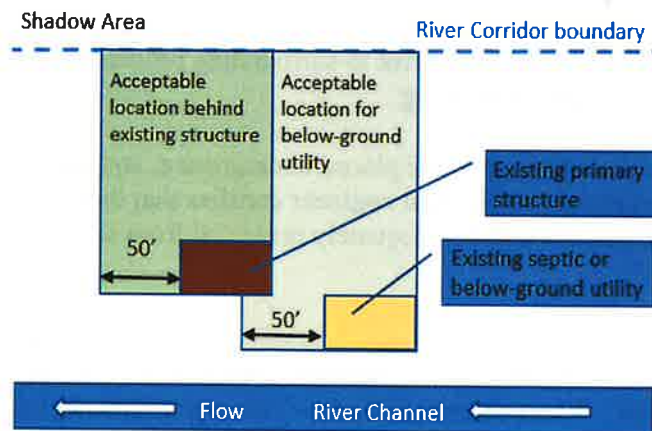
- 1. In a designated center that lies in the River Corridor, infill development is allowed provided that the location of said development is no less than the shortest distance between immediately adjacent existing aboveground development and the top of bank.

2. Development outside of designated centers shall meet the following criteria:

- a. **In-Fill Between Existing Development:** Development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet, or



- b. **Down River Shadow:** New proposed development that is adjacent to existing structures shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system.



3. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank.

4. Accessory structures may be located within 50 feet of the existing primary building provided that the location is not less than the distance between the existing primary structure and the top of bank.
5. Proposals that do not meet the infill or shadowing criteria in Section 608.C.2 (a) or (b) must demonstrate and the Development Review Board must find that the proposed development will:
 - a. Not increase the susceptibility of that or other properties to fluvial erosion damage;
 - b. Not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;
 - c. Not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events;
 - d. Not be placed on land with a history of fluvial erosion damage or be imminently threatened by fluvial erosion;
 - e. Not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and
 - f. Not result in an immediate need or anticipated future need for stream channelization solely as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.
6. Bridge and culvert projects must have a Stream Alteration permit.
7. Channel management activities must be authorized by the Vermont Agency of Natural Resources.
8. Recreational Vehicles in the River Corridor shall be fully licensed and ready for highway use, and be located no closer to top of bank than the primary structure on the property.
9. Storage of all materials that are buoyant, flammable, explosive or in times of flooding, could be injurious to human, animal, or plant life, shall be floodproofed to the maximum extent possible, including being firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
10. The Development Review Board may request or consider additional information to determine if the proposal meets the standards listed in Section 608.C.5, including:

- a. a description of why the shadowing and infill criteria in Section 608.C.2 (a) or (b) cannot be met;
- b. data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards;
- c. Comments provided by the DEC Regional Floodplain Manager on whether or not the proposal meets the River Corridor Performance Standard.

D. Alteration or Relocation of Watercourse

- 1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent towns which may be affected by such action have been notified by the town, and until all required permits or approvals have first been obtained from the Vermont Agency of Natural Resources.
- 2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not decrease stream stability, or reduce or impede the flood carrying and sediment transport capacity of the watercourse in any way.
- 3. In addition, FEMA shall be notified prior to any alteration or relocation of any watercourse.

NOTE: While submission of technical or scientific data is a municipal responsibility, a municipality may pass this responsibility onto the applicant. Since there are often fees associated with processing Letters of Map Change, communities should consider who will fulfill this requirement.

- E. Any new construction, development, uses or activities allowed within any Regulated Flood Hazard Area shall be undertaken in strict compliance with the provisions contained in these Bylaws and any other applicable codes, bylaws and regulations.
- F. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “Repetitive Loss” shall be undertaken only in full compliance with the provisions of these Bylaws.

609 Enforcement and Penalties

- A. These Bylaws shall be enforced under the Town of Newfane Zoning Bylaws in accordance with 24 V.S.A. Chapter 117 § 4451, § 4452 and 24 V.S.A. Chapter 59 § 1974a.
- B. Whenever the Zoning Administrator or other authorized town representative determines that there are reasonable grounds to believe that there has been a violation of any

provisions of these Bylaws, or of any regulations adopted pursuant thereto, the Zoning Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. state that the alleged offender has an opportunity to cure the violation within seven days of receipt;
4. state that failure to cure the violation may result in fines and/or loss of flood insurance;
5. state that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days within the next succeeding 12 months;
6. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State; and,
7. contain an outline of remedial actions which, if taken, will affect compliance with the provisions of these Bylaws.

C. Copies of the notice of violation will be:

1. Mailed to the Vermont NFIP Coordinator and, within 30 days be
2. Filed in the land use permit files; and,
3. Delivered to the town clerk for recording in the land records.

D. After seven days, if the violation has not been remedied, in accordance with 24 V.S.A. Chapter 59 § 1974a, and Chapter 117 § 4451 and § 4452; any person who is found to have violated these Bylaws shall be fined by the court not more than \$200.00 for each offense. No action may be brought under this section unless such notice as required has been given as described above in this part. In default of payment of the fine, the violator shall pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense.

E. Within any FEMA Identified Special Flood Hazard Area, if any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the violator. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a

cited State or local law, regulation, or bylaw, (c) a clear statement that the Zoning Administrator making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Section 610 Variances

If compliance with any of the requirements of these Bylaws would result in an exceptional hardship to a prospective builder, developer or landowner, the Town of Newfane may, upon request, grant relief from the strict application of the requirements. Variances may be granted in writing by the Development Review Board only in accordance with all the criteria below and in 24 V.S.A. § 4469 and 44 CFR § 60.6.

1. No variance shall be granted in the Special Flood Hazard Area that would cause any increase in the BFE. In A districts, BFE's are determined using the methodology described in Section 604.C.3 of these Bylaws.
2. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.
3. That the unnecessary hardship has not been created by the appellant.
4. If granted, a variance shall involve only the least modification necessary to provide relief.
5. In granting any variance, the Town of Newfane shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of these Bylaws.
6. A variance for development within the River Corridor may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
7. Whenever a variance is granted to construct a structure below the BFE, the Town of Newfane shall notify the applicant in writing over the signature of a community official that:
 - a. The granting of the variance may result in increased premium rates for flood insurance; and
 - b. Such variances may increase the risks to life and property.

8. In reviewing any request for a variance, the Town of Newfane shall consider, at a minimum, the following:
 - a. That there is good and sufficient cause.
 - b. That failure to grant the variance would result in exceptional hardship to the applicant.
 - c. That the granting of the variance will:
 - i. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - ii. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local bylaws and regulations.
9. A complete record of all variance requests and related actions shall be maintained by the Town of Newfane. In addition, a report of all variances granted during the year for properties within the Special Flood Hazard Area and properties insured by the National Flood Insurance Program, shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

NOTE: In granting a variance for a property within the Special Flood Hazard Area or insured by the National Flood Insurance Program, municipalities are held to the standard provided in 44 CFR §60.6. If a variance is granted erroneously, a municipality remains liable for failing to meet the minimum standards of the National Flood Insurance Program.

Article 7
DEFINITIONS

Unless otherwise expressly stated, the following words and phrases shall be construed throughout these Bylaws to have the meaning indicated in this Article.

Unless the context clearly indicates to the contrary, words used in the present tense include the future, the singular number includes the plural and the plural includes the singular.

The word “shall” is mandatory, not discretionary; the word “may” is permissive.

Accessory Dwelling Unit: A dwelling unit that is subordinate to the single-unit home, and that includes all the amenities needed for independent living; including: bedroom or sleeping area; kitchen or food preparation area; and bathroom facilities. See Section 511 for specific details.

Accessory Structure: A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

Accessory Use: A use which is customarily incidental and subordinate to the principal use of a lot or parcel of land, is located on the same lot as the primary use, and is clearly related to the principal use.

Acre: A parcel of land with a surface area of 43,560 square feet.

Act: The Vermont Planning and Development Act 24 V.S.A. Chapter 117.

Agriculture: Land which is used for raising livestock, the growing and harvesting of crops, orchards, tree farms, maple sugar stands, riding and boarding stables, nurseries and greenhouses, farm structures, and as an accessory use, the wholesale or retail sale of agricultural products grown on the premises where it is produced. For the purposes of these bylaws, agriculture does not include slaughterhouses.

Alteration: Structural change, rearrangement, change of location, or addition to a building, other than regular repair and maintenance to the building and modification of equipment in the building.

Animal Hospital: A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-term boarding and shall only be incidental to such hospital use.

Appurtenant Structure: Secondary structure either attached to a primary or accessory building or free standing including but not limited to towers, antennae, flag poles, and chimneys.

Area of Special Flood Hazard: This term is synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

Artist Studio: Work space for individuals engaged in the application, teaching or performance of one of the fine arts or an applied art or craft.

Bank: A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Banner: A sign having the characters, letters, illustrations or ornamentations applied to cloth, paper, fabric or other lightweight material, with only such material for a backing. The definition of banner does not include flags.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood” or one-percent (1%) annual chance flood).

Base Flood Discharge: The volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

Base Flood Elevation (BFE): The water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. For Zones AE, AH, A1-30 this elevation is shown on the Flood Insurance Rate Map (FIRM).

Basement: Any area of the building having its floor below ground level on all sides.

Bed & Breakfast: A single unit dwelling occupied by the owner or operator, in which not more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to transient travelers. Individual cooking and eating facilities shall not be provided; food and beverage service shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests.

Buffer: Any space between adjoining uses intended and designed to reduce the impact of one use upon the other including open space, woodland, landscaped areas, and other types of visual and sound barriers.

Building: A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers or mobile homes to be used for human habitation. This also includes any storage tanks.

Building Height: Height should be measured as the vertical distance from the average ground elevation at finished grade around the exterior walls of a structure to the highest point of the highest structural member.

Campground: A parcel of land upon which three or more campsites are located for occupancy by a tent, cabin, lean-to, or similar structure as temporary living quarters for recreation, education, or vacation purposes.

Cemetery: Land used or dedicated to the burial of the dead, including as accessory structures mausoleums or maintenance facilities, but excluding crematoriums. An individual or family burial site on private land, registered with the Newfane Town Clerk in accordance with state law, is exempted from this definition.

Change of Use: To alter or vary the function, service or purpose of a building, structure or parcel of land. Any change of use from one category to another (i.e. residential to commercial) or within a category of use (i.e. one conditional use to another), one manufacturing use to another, or from a single unit use to a two unit use or multi-unit use. A change of use shall also include a change of character of the business activity (i.e. retail to wholesale).

Channel: An area that contains continuously or periodically flowing water that is confined by banks and a streambed.

Channel Width: This (or bankfull width) is the width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, once every 1 to 2 years.

Child Care Facility: A state registered or licensed child care facility, other than home child care, including any place operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is the protection, care, and supervision of more than six persons outside their homes for periods of less than twenty-four hours a day by a person other than the person's own parent, guardian or relative.

Cluster Development: A development design technique that concentrates buildings in specific areas of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

Commencement of Construction: The completion of sufficient site work to enable the construction of the foundation of a structure and the construction of such foundation.

Community: Any State or area political subdivision thereof, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce regulations for the areas within its jurisdiction.

Contractor's Yard: A parcel of land with or without buildings thereon to be used for the outside storage of equipment, materials, and/or vehicles used in the operation of construction and related trades that take place off-site. Customary accessory structures and/or uses may include a small office, and storage and maintenance facilities for equipment and vehicles.

Critical Facilities: This includes police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the municipality identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may

raise its status to a Critical Facility, such as a grocery store or gas station.

Cultural Facility: A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

Design Flood Elevation (DFE): The DFE in the Town of Newfane means the Base Flood Elevation plus two feet.

Designated center: A downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.

Development: Any human-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures, the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DRB: Abbreviation for the Town of Newfane Development Review Board.

Dwelling Unit: One or more rooms designed, occupied or intended for occupancy as separate living quarters, with full cooking, sleeping, and sanitary facilities.

Dwelling, Single-Unit: Detached building used for one dwelling unit only, including attached appurtenant building or buildings on a permanent foundation regardless of square footage.

Dwelling, Two-Unit: A building containing two dwelling units independent of each other. Includes attached appurtenant building or buildings.

Dwelling, Three or Four-Unit: A building containing three or four dwelling units independent of each other. Includes attached appurtenant building or buildings.

Dwelling, Multi-Unit: A building or portion thereof, designed, occupied or used for five or more dwelling units independent of each other.

Encroachment: Any fill or development that reduces the functional river corridor (impairs the equilibrium condition) or increases flood levels.

Equilibrium condition: This means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

Excavation: Any breaking of ground, except common household gardening and ground care.

Existing Manufactured or Mobile Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured

homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a municipality.

Expansion to an Existing Manufactured or Mobile Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Extraction of Earth Resources: A use involving the on-site removal of surface and subsurface materials, including soil, sand, gravel, stone, rock or organic substances other than vegetation, from land or water. Customary extraction operations include sand and gravel pits, rock quarries, and accessory operations such as the crushing, screening, and temporary storage of materials excavated on-site.

Family: Any number of individuals related by blood, adoption, marriage, or civil union, or up to five unrelated persons, living together as a household.

Fill: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

Flood: This means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM): The official map of a municipality, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the municipality.

Flood Insurance Study (FIS): An examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.

Floodplain Administrator: The Zoning Administrator acts as the Floodplain Administrator and is charged with administering Article 6, Flood and Fluvial Erosion Hazard Regulations, of these Bylaws under 24 V.S.A. § 4448.

Floodplain or Flood-prone Area: A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Fluvial Erosion: Erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

Foot-Candle: Measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot.

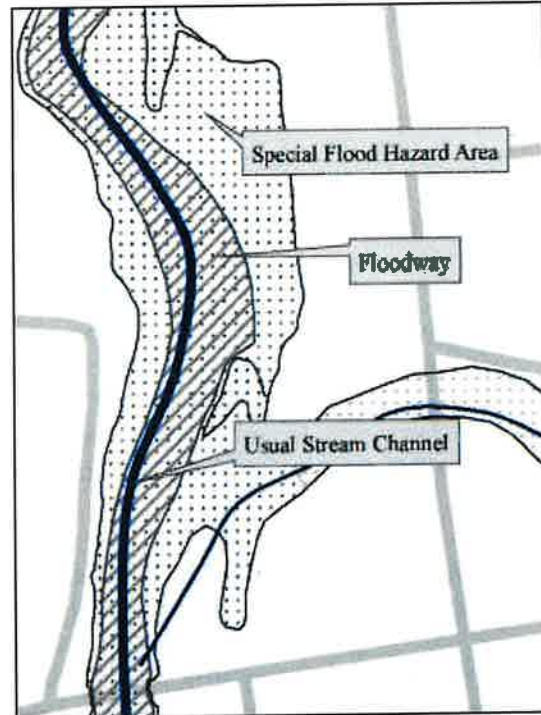
Footprint: The ground area enclosed by any permanent foundation, wall, footings, and piers, including those under a deck.

Forestry: The use and management of woodlands for purposes of timber production and harvesting for commercial, wildlife and/or conservation purposes. This definition specifically excludes permanent sawmills, lumber yards and other similar facilities used for the processing and/or manufacturing of wood and wood products; but may include, as accessory uses, portable sawmills and equipment used on-site in association with timber harvesting operations.

Frontage: The yard adjoining the street of a lot's address and a strip of land adjacent to a road.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Funeral Home: A building or part thereof used for human funeral services. Such building may also contain space and facilities for preparation of the dead for interment or cremation, not including facilities for cremation; the performance of autopsies and associated surgical procedures; the storage and sale of caskets, funeral urns and related funeral supplies; and the storage of funeral vehicles.



Gallery: An establishment engaged in the display, sale, or loan, of art and craft work, excluding non-commercial museums and art galleries.

Glare: Direct view of a light source that results in discomfort to the observer and possible temporary visual impairment.

Gross Floor Area: The area within the perimeter of the outside walls of a building. It takes into account space used for interior features such as stairwells and elevator shafts.

Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

Home Child Care: In accordance with the § 4412(5) of the Act, a state registered or licensed child care home serving six or fewer children on a full-time basis, and up to four additional children on a part-time basis, which is conducted within a single unit dwelling by a resident of that dwelling. A home child care as defined shall be considered a permitted use of a single unit dwelling.

Home Business: An expanded home-based occupation conducted by a resident of a dwelling unit which is carried on within the dwelling unit and/or accessory structures and complies with Section 543 of these Bylaws.

Home Occupation: An occupation conducted solely within a minor portion of a dwelling unit and/or accessory structures which is conducted by resident occupants, which is clearly incidental and secondary to the use of the dwelling, which does not change the character thereof and complies with Section 542 of these Bylaws.

Hotel: A public building or group of associated buildings which provide lodging to transients on a short term basis, may provide for food preparation and meals in a central dining area and may have a management entity operating the building(s) and may provide maid service and a central switchboard operation. Rooms in the building(s) may be under separate, common or cooperative ownership.

Identified Floodplain Area: This is an umbrella term that includes all of the areas within which the municipality has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the municipality. See Section 604.A of these Bylaws for what areas the community has included in the Identified Floodplain Area.

Indoor Recreational Facility: A building or structure designed, equipped and used for sports, leisure, and other recreational activities, except for such facilities which are an Accessory Use to an approved educational facility or a residential use. This includes, but may not be limited to bowling alleys, skating rinks, gymnasiums, and indoor swimming pools.

Interested Person: The definition of an interested person under § 4465(b) of the Act includes the following:

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
2. The Town of Newfane or any adjoining municipality;
3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaws of that municipality;
4. Any ten (10) voters or property owners within the municipality who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
5. Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Kennel: A structure or areas used for the boarding, breeding, raising, grooming, or training of two or more dogs, cats or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

Land Development: The division of a parcel into four or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, landfill, and any change in use of any building or other structure, or land, or extension of use of land.

Landscaping: The addition of lawn, trees, plants, grading and other natural and decorative features to land.

Letter of Map Amendment (LOMA): An official amendment, by letter from FEMA, to an effective National Flood Insurance Program map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area. LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain, but a licensed engineer or surveyor is able to show that the property or structure is actually above the base flood elevation.

Light Industry: Research and development activities, the manufacture, fabrication, processing or warehousing of previously prepared materials, which activities are conducted wholly within an enclosed structure. Finished or semi-finished products may be stored outdoors pending shipment.

Lodge/Inn: A residential dwelling in design and/or previous use, now used for commercial purposes wherein the patronage is of a transitory nature and which may offer central dining facilities to the guests of the lodge/inn or the public.

Lot: Any parcel of land the boundaries of which are separately described in a recorded deed or filed plat.

Lot Area: The total area within the property lines.

Lot Coverage: A measure of intensity of land use that represents the portion of a site that is impervious (i.e. does not absorb water). This portion includes, but is not limited to, all areas covered by buildings, parked structures, driveways, roads, sidewalks, and any area of concrete asphalt.

Lowest floor: This means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant partially enclosed area, used solely for parking of vehicles, building access or incidental storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not designed and built so that the structure in violation of the applicable non-elevation design requirements of these Bylaws.

Luminaire: Complete lighting unit including fixture, lamp, and other parts.

Manufactured or Mobile Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle". It does include structures:

- transportable in one or more section; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

Manufactured or Mobile Home Park or Subdivision: Any parcel of land (or contiguous parcels) under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two manufactured or mobile homes for rent or sale. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

Minor Repair: The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.

Mixed Use: A building or parcel that integrates two or more land uses.

Modular (or Prefabricated) Housing: A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Motel: Building containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting of at least a bedroom and bathroom and containing no cooking facilities.

Motor Vehicle Service Station: An area of land, including the structures thereon, used for the sale of motor fuel, oil and motor vehicle accessories and which may include facilities for lubricating, washing, servicing and repairing motor vehicles exclusive of body work.

Natural Burial Ground: a cemetery maintained using ecological land management practices and without the use of vaults for the burial of unembalmed human remains or human remains embalmed using nontoxic embalming fluids and that rest in either no burial container or in a nontoxic, nonhazardous, plant-derived burial container or shroud.

New Construction: Structures for which the start of construction commenced on or after *the effective start date of the floodplain management bylaws* and includes any subsequent improvements to such structures. Any construction started after 6/5/1989 and before *the effective start date of the floodplain management bylaws* is subject to the bylaws in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

New Manufactured or Mobile Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed

on or after the most recent effective date of floodplain management regulations adopted by a community.

Non-Conforming Lot or Parcels: Lots or parcels that do not conform to these Bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of an error by the Zoning Administrator.

Non-Conforming Structure: A structure or part of a structure that does not conform to these Bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Bylaws, including a structure improperly authorized as a result of an error by the Zoning Administrator. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

Non-Conforming Use: A use of land that does not conform to these Bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Bylaws, including a use improperly authorized as a result of an error by the Zoning Administrator. Uses that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming uses.

Nonconformity: A nonconforming use, structure, lot, or parcel.

Non-residential: A commercial or mixed-use building where the primary use is commercial or non-habitational. This includes, but is not limited to: small businesses, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

Non-substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost is less than 50 percent of the market value of the structure before the "start of construction" of the improvement.

Nursing Home: Building where persons are housed and furnished with meals and nursing or convalescent care.

Office (Professional, Business): A room, suite of rooms or building principally used for conducting the affairs of a business, profession, or service industry. This definition specifically excludes office space which is associated with home occupations or office space that is clearly accessory to another allowed principal use. It also specifically excludes on-premise retail sale of goods and services.

Open Space: Land not to be developed, but to remain permanently available for purposes of recreation, including recreation facilities, and for conservation, including agriculture, for the benefit of the neighborhood community, without buildings, except as incidental accessories to agriculture, forestry, conservation and recreational purposes and maintenance.

Outdoor Recreational Facility: A facility for outdoor recreation, including but not limited to a tennis or basketball court, athletic field, in-ground swimming pool, or cross-country skiing center, except for such facilities which are an Accessory Use to an approved educational facility, public park, or a residential use. This definition specifically excludes golf courses and public parks and shooting ranges.

Perennial Stream: Watercourses as identified by US Geological Survey (USGS) topographical maps.

Person: An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other incorporated or unincorporated organization or group, which is recognized by law as the subject of rights and duties.

Personal Services: Establishments primarily engaged in providing individual services generally related to personal needs, including, but not limited to hairdressing, tailor, masseuse, shoe repair, laundry services, copy services. May include a business which provides equipment service such as repair to small machinery, sewing machines, lawn mowers, televisions, electronics and small engines.

Post-FIRM Structure: A structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the effective date of the community's first Flood Insurance Rate Map (FIRM) dated 06/05/1989, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

Pre-FIRM Structure: A structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the effective date of the community's first Flood Insurance Rate Map (FIRM) dated 06/05/1989, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

Principal Structure: A building or structure within which the main or primary use of the lot on which the building is located is conducted.

Private Club: A corporation, organization, or association or group of individuals existing for fraternal, social, recreational, or educational purposes, for cultural enrichment or to further the purposes of agriculture, which owns, occupies, or uses certain specified premises, which is not organized or operated for profit, and the benefits of which are available primarily to members only.

Public Facility: Use conducted by, or a facility or structure owned or managed by, the government of the United States, the State of Vermont, or the Town of Newfane that provides a governmental function, activity, or service for public benefit.

Public Utility Facility: A building or structure used or intended to be used by any public utility, including, but not limited to a water treatment plant, wastewater treatment plant, transmission and distribution facilities, electric substation, telephone switching plant, storage yard for public utility equipment or vehicles, and any parking lot for parking vehicles or automobiles to serve a public utility.

Recreational Vehicle: A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulated Flood Hazard Areas: A term that refers to all areas defined in Section 604.A of these Bylaws and regulated by these Bylaws, and is the total land to which these regulations apply. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district.

Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Religious Institutions: A building used for public worship by a congregation, excluding buildings used exclusively for residential, educational, recreational or other uses not normally associated with worship. Includes, but is not limited to, churches, chapels, temples, and similar designations.

Renewable Energy Resource: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.

Residential Care Home: A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator. 33 V.S.A. § 7102(1).

Restaurant: An establishment that serves food and beverages to persons seated primarily within the principal building. This includes taverns, bars, cafes, tea rooms, and outdoor cafes. It also may include take-out service, but does not include service delivered directly to customers who are in motor vehicles.

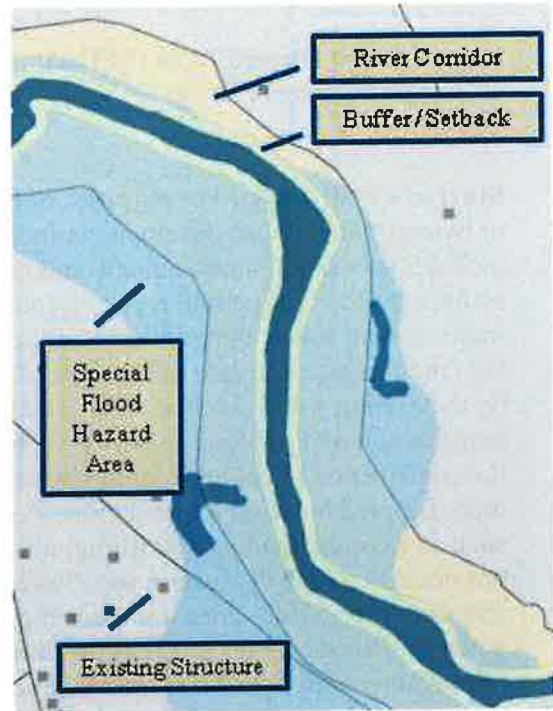
Retail: Premises where goods, services, or merchandise are offered for retail sale or rent to the general public for personal, business, or household consumption and services incidental to the sale of such goods are provided. This definition specifically excludes the retail sale of gasoline or motor vehicles and other separately regulated retail uses defined herein.

Right-of-Way: The legal right to pass over property owned by another property. The path or thoroughfare on which such passage is made.

River: The full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow. "River" does not mean constructed drainageways, including water bars, swales, and roadside ditches.

River Corridor: The land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 V.S.A. § 1422, and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources (ANR) on the online Natural Resources Atlas.

Seasonal Camp: A building not exceeding 720 square feet in building area which has no permanent foundation and is not served by public utilities. A seasonal camp shall not be used as a primary or secondary residence, but rather as a temporary shelter for occasional use in connection with an outdoor recreational activity such as hunting or fishing.



Separate and Non-Affiliated Ownership: A situation wherein the owners of property do not also hold contiguous property in affiliated ownership.

Setback: The space on a lot required to be left open and unoccupied by buildings or structures, either by the front, side or rear yard requirements of these Bylaws, or by delineation on a recorded subdivision map. The front setback shall be the distance measured perpendicularly from the center line of the legal access. The rear and side setbacks shall be the distance measured perpendicularly from the property lines.

Setback also means an undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

Small streams: Streams as delineated by the Vermont Agency of Natural Resources (ANR) on the online Natural Resources Atlas, with drainage areas of between .5 and 2 square miles, which, because of their low sensitivity, small watershed size, steeper valley slope, and/or valley confinement, may attain their least erosive form within an area delineated as a simple 50-foot setback measured horizontally and perpendicularly from the top of each streambank. The river corridor for small streams constitutes the stream channel plus the 50-foot setback on each side.

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity appropriate to the on-site electric usage of the end-user and may be interconnected with the electric utility system.

Small Wind Energy System Height: The tower height plus the blade length.

Special Flood Hazard Area (SFHA): An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

Start of construction: For purposes of floodplain management, this determines the effective map or bylaws that regulate development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date and shall be completed within twenty-four (24) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Zoning Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Structure: An assembly of materials for occupancy or use, including but not limited to, a walled or roofed building, a mobile or manufactured home or trailer, billboard, sign, wall, or fence. Structures also include, without limitation, decks, swimming pools, tennis courts, towers, wind energy facilities, and gas or liquid storage tanks.

Subdivision: The division of a lot, tract, or parcel of land by any means into two or more lots, tracts, or parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of sale, conveyance, lease, or development, including partition of the court for distribution to heirs or devisees. The term “subdivision” includes the re-subdivision involving the adjustment of boundaries between two or more existing parcels.

Any transfer, conveyance, or sale, of land held in one ownership, but already divided into lots by an existing public or private right-of-way shall not be considered a subdivision for the purposes of these regulations. The subdivision by lease of land for agricultural purposes into parcels of more than five acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these Bylaws, the cost of which, over three years or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Temporary Use: A building or structure, permitted in accordance with Section 490, which is constructed or located on a site and remains on said site for a period of not more than one (1) year.

Top of Bank: That vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine and blades.



Turbine: The parts of a wind system including the blades, generator and tail.

Unit: This term is the same as “dwelling unit”.

Use: The purpose for which land, premises, or a building thereon, is designed, arranged, intended, and for which it is (or may be) occupied or maintained.

Variance: A grant of relief by a community from the terms of a floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with these Bylaws. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

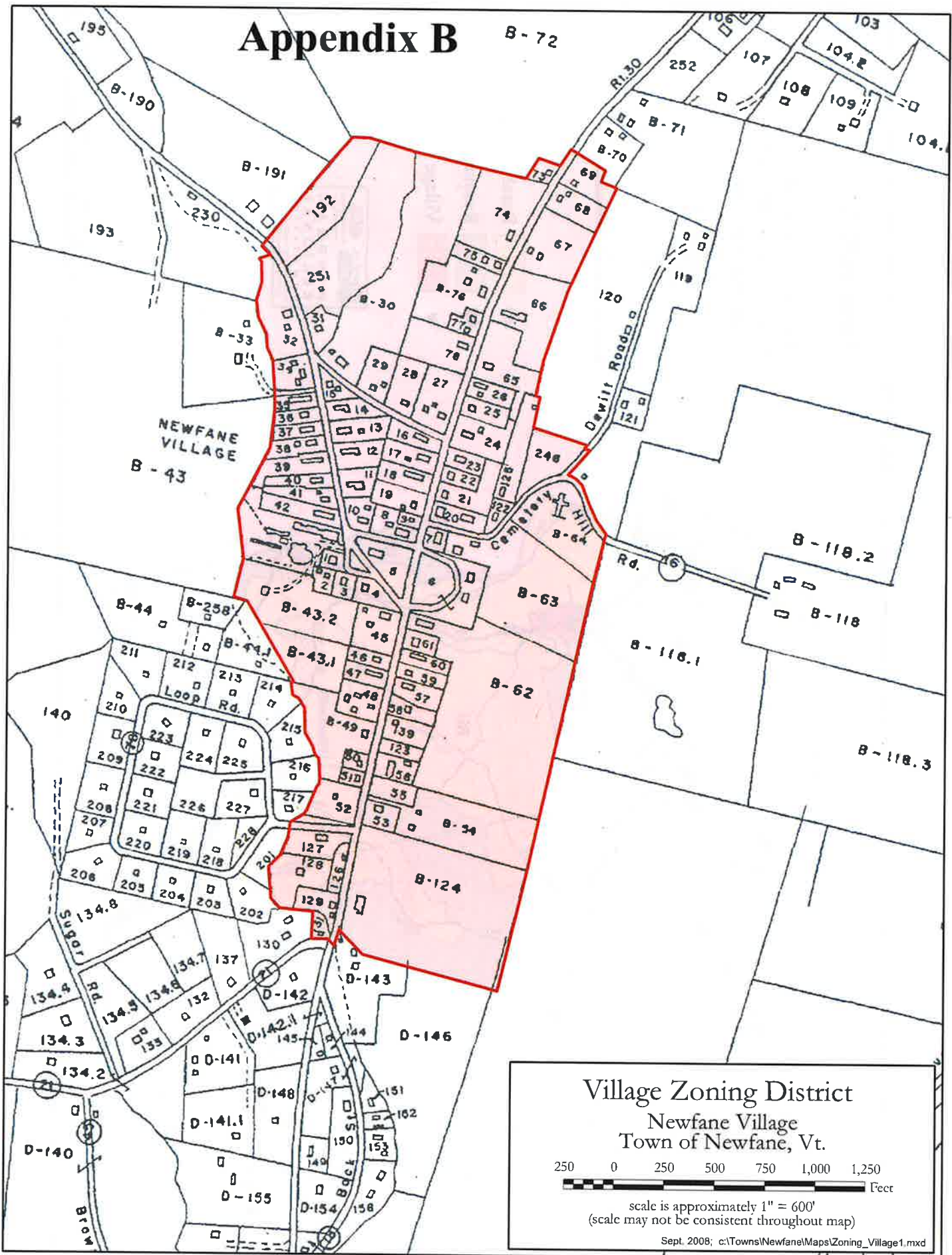
Wetland: Those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonably saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, vernal pools and ponds, but excluding such areas as grow food or crops in connection with farming activities. 24 V.S.A. § 4303(32)

Zoning Administrator: Local official charged with administering these Bylaws under 24 V.S.A. § 4448.

Zoning Permit: Authorization to commence development to be issued by the Zoning Administrator in conformance with these Bylaws.

Appendix B

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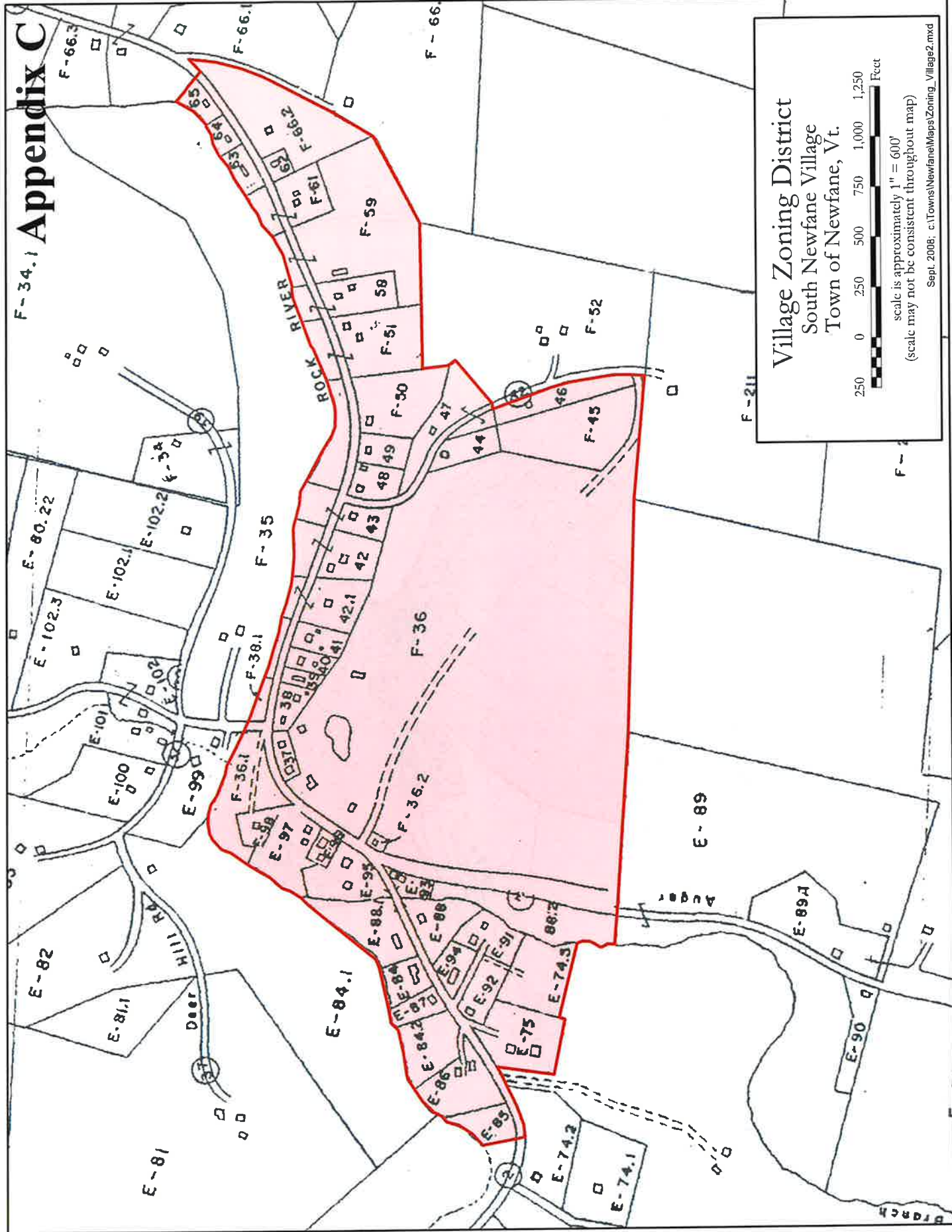


Village Zoning District
Newfane Village
Town of Newfane, Vt.



scale is approximately 1" = 600'
(scale may not be consistent throughout map)

Appendix C



Village Zoning District
South Newfane Village
Town of Newfane, Vt.

