

**Town of Londonderry Vermont  
Zoning Bylaw**

**Section 402. Access and Frontage Requirements**

**[Amended 5/18/2020]**

(A) In accordance with the Act [Section 4412(3)], except as provided below, no land development may be permitted on lots which do not have either frontage on a maintained public road [Class I, II, III, state] or public waters, or access to such a road or waters by a permanent easement or right-of-way at least fifty (50) feet in width.

1. The Development Review Board may allow land development subject to Conditional Use Review procedures as set forth in Zoning Bylaw Section 503.
2. Exceptions to the foregoing are:
  - a. The Administrative Officer may allow for enlargements and renovations to existing structures, and/or construction of new structures accessory to existing legal uses on a lot, regardless of the width of the permanent easement or right-of-way providing access, provided such enlargements, renovations or new accessory structures contain less than 40% of total floor area of the existing primary structure.
  - b. The Administrative Officer may allow for land disturbance (though not mining, pond excavation or landfilling) on a lot, regardless of the width of the permanent easement or right-of-way providing access, provided such land disturbance is less than one-quarter acre in size.

An access road or driveway may serve a maximum of three (3) lots including frontage lots. Roads serving more than three lots must meet the Town of Londonderry Road Ordinance as adopted by the Selectboard.

Access onto public roads shall also be subject to the approval of the Londonderry Selectboard, and for State highways (Vermont Routes 11 and 100), the Vermont Agency of Transportation. As a condition to such permits, compliance with all local ordinances and regulations pertaining to highways and land use shall be required. The Selectboard and/or Agency may, as a condition of the permit, provide for the elimination of accesses previously permitted and require the construction of a common frontage road or other access improvements which may serve more than one property or lot [19 V.S.A., 1111(f)].

For access subject to Development Review approval, the Development Review Board may consider intended use, safety, traffic, lot configuration and road and site conditions in granting or denying approval. Lots created after the effective date of this Bylaw are subject to all access and/or frontage requirements contained herein, as well as applicable provisions under Subdivisions (Section 314), and Site Plan Review (Section 504).

(B) No lot shall be served by more than one (1) access road or driveway unless otherwise permitted under Subdivision (Section 314) and Site Plan Review (Section 504). Accesses (curb cuts) are to be installed in accordance with Town and/or State regulations, and shall not be permitted to extend along the length of road frontage. Driveways are to be located at least one hundred (100) feet from a street or highway right-of-way intersection for all uses, except one-and two-family residential uses, which shall be at least fifty (50) feet from the same.

**Town of Londonderry, Vermont  
Zoning Bylaw**

**Adopted by Select Board  
December 2009**

**LONDONDERRY ZONING BYLAWS  
TABLE OF CONTENTS**

**Article I. Authority & Purpose** Page 1

- Section 100. Enactment
- Section 101. Purpose
- Section 102. Application and Interpretation
- Section 103. Adoption & Amendment; Effective Date
- Section 104. Severability

**Article II. Establishment of Districts and District Standards** Page 2

- Section 200. Establishment of Zoning Districts & Map
- Section 201. Zoning District Purpose
  - Village Residential District
  - Residential District
  - Rural District
  - Village Commercial District
  - General Commercial District
  - Recreation Commercial District
  - Shore land District
  - Flood Hazard Overlay District
  - Resource Conservation Overlay District
  - Town of Londonderry Zoning Map Page 4.1
- Section 202. Interpretation of District Boundaries
- Section 203. District Standards
  - (D) Uses Not Provided For
  - Table 2-1 District Uses and Dimensional Standards
- Section 204. Supplemental District Standards
  - Shore land District
  - Resource Conservation Overlay District
- Section 205. Flood Hazard Overlay District

**Article III. Special Regulations for Designated Uses** Page 13

- Section 300. Specific Standards for Designated Uses
- Section 301. Accessory Dwellings
- Section 302. Automobile Service Stations
- Section 303. Campers
- Section 304. Campgrounds
- Section 305. Country Inn
- Section 306. Child Care Facility
- Section 307. Residential Care Home or Group Home
- Section 308. Excavation/Quarry
- Section 309. Home Based Businesses
- Section 310. Light Industry
- Section 311. Mixed Uses
- Section 312. Mobile Home Park
- Section 313. Resource Industry
- Section 314. Subdivision
- Section 315. Telecommunication Towers

**Article IV. General Standards**

Page 26

- Section 400. Applicability
- Section 401. Abandonment of Structures
- Section 402. Access and Frontage Requirements
- Section 403. Compliance with State and Federal Regulations
- Section 404. Conversion and Change of Use
- Section 405. Existing Small Lots
- Section 406. Flammable Liquids, Outdoor Storage of
- Section 407. Height of Structures
- Section 408. Housing, Equal Treatment of
- Section 409. Landfill
- Section 410. Lighting Standards
- Section 411. Lot, Setback and Yard Requirements
- Section 412. Non-Conforming Uses and Non-Complying Structures
- Section 413. Parking and Loading Requirements
- Section 414. Performance Standards
- Section 415. Residential Group Home and Child Care Facilities
- Section 416. Rivers, Streams, Shorelines and Wetlands
- Section 417. Public Use Exceptions
- Section 418. Signs
- Section 419. Temporary Uses

**Article V. Development Review Standards**

Page 41

- Section 500. Application of Development Review Standards
- Section 501. Coordination of Conditional Use & Site Plan Review
- Section 502. Site Development Plan
- Section 503. Conditional Use Review
- Section 504. Site Plan Review
- Section 505. Planned Unit Development (PUD)

Page 43

Page 45

**Article VI. Administration and Enforcement**

Page 51

- Section 600. Appointments, Duties & Responsibilities
- Section 601. Zoning Permit and Procedures
- Section 602. Certificate of Compliance
- Section 603. Exemptions
- Section 604. Required Notification to State Agencies
- Section 605. Appeals to the Development Review Board
- Section 606. Variances
- Section 607. Appeals to Vermont Environmental Court
- Section 608. Enforcement
- Section 609. Public Notice Requirements
- Section 610. Recording Requirements

**Article VII. Definitions**

Page 60

## ARTICLE I. AUTHORITY AND PURPOSE

### Section 100. Enactment

In accordance with Section 4401 of the Vermont Municipal and Regional Planning and Development Act [V.S.A., Chapter 117], hereinafter referred to as “the Act,” there is hereby established a zoning bylaw for the Town of Londonderry as set forth in the text and maps contained herein. This Bylaw shall be known as the “**Londonderry Zoning Bylaw.**”

### Section 101. Purpose

It is the purpose of this Zoning Bylaw to promote the health, safety and general welfare of the residents of the Town of Londonderry, to provide for and promote the orderly development of the Town, to further the goals and purposes of the Act [Section 4401], and to implement the Londonderry Town Plan as most recently adopted.

### Section 102. Application and Interpretation of this Bylaw

- (A) The application of this Bylaw is subject to the provisions of all subchapters of the Act as most recently amended. In accordance with the Act [Section 4441], no **land development** as defined herein shall commence within the jurisdiction of the Town of Londonderry except in compliance with the provisions of this Bylaw. Land development shall not include customary maintenance activities. Any land developmental not specifically authorized under this Bylaw, unless otherwise exempted under the Act, or Section 603, is prohibited.
- (B) This bylaw is intended to repeal the previous Bylaw, but it is not intended to annul or in any way impair other regulations or permits previously adopted or issued. If any development subject to regulations under this Bylaw is also subject to other Town or State regulations, the most stringent or restrictive regulations shall apply.

Land Development: the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, or of any mining, excavation, or landfill, any change in use of any building or other structure, or land or extension of use of lands. [24 V.S.A., Section 4303 (10)].
--

### Section 103. Adoption and Amendment; Effective Date

This Bylaw shall be adopted by vote by Australian ballot and may be amended in accordance with the requirements and procedures outlined in the Act [Sections 4441, 4442]. The provisions of this Bylaw shall become effective immediately upon adoption.

### Section 104. Severability

The provisions of this Bylaw are severable. The invalidity of any provision or application of this Bylaw shall not invalidate any other part thereof.

## ARTICLE II. ZONING DISTRICTS & DISTRICT STANDARDS

### Section 200. Establishment of Zoning Districts & Map

- (A) For the purposes of this bylaw, the Town of Londonderry is divided into the following three categories of zoning districts: **Residential, Commercial and Conservation**. Within these categories are hereby established the following zoning districts:
- (1) **Residential Districts**
    - (a) **Village Residential (VR) District**
    - (b) **Rural Residential-1 (R1) District**
    - (c) **Rural Residential-3 (R3) District**
  - (2) **Commercial Districts**
    - (a) **Village Commercial (VC) District**
    - (b) **Service Commercial (SC) District**
    - (c) **Recreation Commercial (RC) District**
  - (3) **Conservation Districts**
    - (a) **Resource Conservation (RCO) Overlay District**
    - (b) **Shoreland (S) District**
    - (c) **Flood Hazard (FHO) District**
- (B) The location and boundaries of zoning districts are established as shown on the official “Town of Londonderry Zoning Map” and associated overlays, including the Flood Insurance Rate Maps (FIRMs) developed by the Federal Insurance Administration and the Resource Protection Overlay Map, which are hereby made a part of these bylaws. The official zoning map and overlays 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.
- (C) The official zoning map and overlays shall be identified by the signatures of the Select Board, as attested to by the Town Clerk. 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 [Sections 4441, 4442].

### Section 201. Zoning District Purpose

- (A) **Residential Districts**
- (1) **Village Residential District (VR).** The purpose of the Village Residential District is to provide for high density residential development in and around the Town’s village centers in a manner that maintains and enhances the traditional village pattern, pedestrian scale and historic character of these areas.
  - (2) **Rural Residential-1 District (R-1).** The purpose of the Rural Residential-1 Districts is to provide for moderate density residential development and compatible land uses in areas with convenient access to public roads, municipal services and commercial centers, while preventing commercial strip development along major highways and maintaining the rural character of the community.

- (3) **Rural Residential-3 District (R-3).** The purpose of the Rural Residential-3 Districts is to provide for agriculture, forestry, low density residential development and other compatible land uses in a manner that maintains the Town's rural character, scenic landscape and natural resources.

**(B) Commercial Districts**

- (1) **Village Commercial District (VC)** The purpose of the Village Commercial District(s) is to provide for a mix of commercial and residential uses at high densities in the Town's traditional centers in a manner that promotes pedestrian circulation and maintains and enhances the Town's traditional settlement pattern of compact village surrounded by rural countryside.
- (2) **Service Commercial (SC) District** The purpose of the Service Commercial Districts is to provide for relatively large scale commercial and industrial uses in a manner that minimizes the potential for adverse impacts on local roads, neighboring properties or the Town's rural character.
- (3) **Recreation Commercial (RC) District** The purpose of the Recreation Commercial District is to provide for a mix of residential, commercial and lodging uses concentrated near the base of Magic Mountain Ski Area to support the viability of the Town's tourist-recreation industry.

**(C) Conservation Districts**

- (1) **Shoreland (S) District** The purpose of the Shoreland Districts is to maintain the scenic, ecological and recreation resources associated with Lowell Lake, Lily Pond and Gale Meadow Pond; preserve water quality and protect wildlife habitat; and preserve shore cover natural vegetation through the careful siting of the location, design and intensity of residential development and associated activities.
- (2) **Resources Conservation (RCO Overlay District** The purpose of the Resource Conservation Overlay District is to recognize and help preserve significant forest resources, sensitive headwater streams and wildlife habitat at higher elevations and to avoid development on steep slopes, shallow soils and in areas with poor access to public roads, municipal services and commercial centers.
- (3) **Flood Hazard (FHO) Overlay District** The purpose of the Flood Hazard Overlay District is to maintain local eligibility in the federal flood insurance program, to promote the public health, safety and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas and to minimize losses due to floods by:
  - (a) Restricting uses that are dangerous to health, safety or property in times of flood or cause excessive increase in flood heights or velocities;
  - (b) Requiring the uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction;
  - (c) Protecting individuals from buying lands that are unsuited for their intended

purposes because of flood hazard; and

- (d) Ensuring continued eligibility in the National Flood Insurance Program (NFIP).

## **Section 202. Interpretation of District Boundaries**

Where uncertainty exists as to the location of district boundaries shown on the official zoning map and overlays, the following rules shall apply:

- (A) Boundaries indicated as approximately following the center lines of streams, roads, transportation and utility rights-of-way shall be construed to follow such center lines.
- (B) Boundaries indicated as approximately following property boundaries or platted lot lines shall be construed to follow such lot lines.
- (C) Boundaries indicated as following shorelines shall be construed as the mean water level. In the event of change in the shoreline the boundary shall be construed as moving with the shoreline.
- (D) Boundaries indicated as parallel to or extensions of features under the subsections (A)-(C), above, shall be construed. Boundaries indicated as lines perpendicular to lines or features described in subsections (A)-(C) shall be construed to proceed at right angles from such lines or features. Distances not specifically indicated shall be determined by the scale of the map.
- (E) The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of these regulations, shall not affect the location of such boundary line, except as otherwise noted under subsection (C), above.
- (F) When the Administrative Officer cannot definitely determine the location of a district boundary by the scale or dimensions given on the official zoning map and associated overlays or by the above rules, the Appropriate Municipal Panel and/or the appropriate state official shall be consulted prior to making the final determination. A determination by the Administrative Officer regarding the location of a district boundary may be appealed to the Development Review Board under Section 605.
- (G) Where a district boundary line divides a lot in single ownership on or after the effective date of this bylaw or of amendments thereto, the Development Review Board may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- (H) When a lot line is situated partly in the Town of Londonderry and partly in a neighboring town, the standards of this bylaw shall be applied to that portion of the lot that lies in the Town of Londonderry in the same manner as if the entire lot were situated therein.

### Section 203. District Standards

- (A) **Application of Standards.** The standards for each district shall apply uniformly to each class of use and/or structure, unless otherwise specified in this bylaw. All uses and structures must hereafter comply with all prescribed standards for the district in which they are located as set forth under this section, Article III and Article IV, of these bylaws unless otherwise permitted under Planned Development ( PUD) provisions under Section 505. Non conforming uses and non-complying structures shall be regulated in accordance with Section 412.
- (B) **Overlay Districts.** Overlay district standards shall be applies concurrently with the standards for underlying districts.
- (C) **Permitted and Conditional Uses.** Proscribed uses for each District are specified in Table 2-1 of this Article. Permitted uses, denoted as “P” in Table 1, are subject to review in accordance with Section 601. Conditional uses, denoted as “CU” in Table 1, are subject to review in accordance with section 503. Both permitted and conditional uses may be subject to Site Plan Review under Section 504, and additional standards set forth in Article III and/or Article IV.
- (D) **Uses Not Provided For.** Any use not permitted by these regulations, unless specifically exempted under Section 603, shall be deemed to be prohibited. The Development Review Board, on appeal or in considering a conditional use application, may allow for a use not specifically listed within a district only upon finding that, in addition to meeting the other specific and general standards set forth in this bylaw, the proposed use if of the same general character as those uses listed for that district and defined under Article VII; and such use will not adversely affect other uses within the district or adjoining land uses.
- (E) **Buildings and Uses on Lots.** There shall be only one principal building or one principal use and its structures on a lot. Provision is made for accessory uses, home occupation and accessory dwellings. In accordance with Section 311, multiple uses on a single lot may be permitted in Districts in which “Mixed Use” is a permitted or conditional use.
- (F) **Dimensional Standards.** All dimensional standards, including maximum building height and maximum lot coverage, minimum setbacks and minimum lot size, minimum lot depth and minimum lot frontage, are provided in Table 2-1 and defined in Section 411. Additional standards and/or dimensional requirements may be provided for particular land uses in Article III and or Article IV of this bylaw.



**Table 2-1  
Londonderry Zoning District Uses and Dimensional Standards**

	Residential Districts			Commercial Districts			Conservation Districts		
	Village Res.	Rural-Res.-1	Rural-Res.-3	Village Comm.	Service Comm.	Recreation Comm.	Shore-land	<sup>1</sup> Resource Conserv.	<sup>2</sup> Flood Haz.
<b>Dimensional Standards</b>									
Minimum Lot Size	1 Ac.	1 Ac.	3 Ac.	1 Ac.	1 Ac.	1 Ac.	10 Ac.		
Minimum Frontage	75 ft	150 ft	300 ft	75 ft	150 ft	100 ft	200 ft <sup>3</sup>		
Minimum Depth	100 ft	150 ft	300 ft	100 ft	150 ft	100 ft	400 ft		
Minimum Setback/Front	15 ft	30 ft	40 ft	15 ft	50 ft	25 ft	50 ft		
Minimum Setback/Side	10 ft	30 ft	50 ft	20 ft	50 ft	20 ft	50 ft		
Minimum Setback/Rear	20 ft	30ft	50 ft	30 ft	50 ft	30 ft	50ft		
Minimum Setback/Shore							300 ft		
Maximum Height	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft		
Lot Coverage	50%	10%	10%	50%	30%	50%	4%		
<b>USES: Permitted uses are denoted as “P”; Conditional Uses are denoted as “CU”. Blank cells indicate the use is neither a Permitted or Conditional Use in the respective district.</b>									
Agriculture	P	P	P	P	P	P	P		
Accessory Dwelling (See Section 301)	CU	CU	CU	CU	CU	CU	CU		
Accessory Use	P	P	P	P	P	P	P		
Automobile Service Station (SeeSection302)				CU	CU				
Bank				P					
Bed & Breakfast	P	P	P	P		P	CU		
Boarding House	P	P	P	P		P			
Business Office	CU			P	P	P			
Campground (See Section 304)		CU	CU				CU		
Cemetery	P	P	P	P					
Cottage Industry (See Section 309)	CU	CU	CU						

<sup>1</sup> Uses and dimensional standards for the Resource Conservation Overlay District are as provided for the underlying zoning district and as set forth in Section 204 of this Bylaw. Generally, all uses other than forestry, agriculture and outdoor recreation are subject to Conditional Use Review in accordance with Section 503.

<sup>2</sup> Uses and dimensional standards for the Flood Hazard Overlay District are as provided for the underlying zoning district and as set forth in Section 204 of this Bylaw. Generally, all uses other than forestry, agriculture and outdoor recreation are subject to Conditional Use Review in accordance with Section 503.

<sup>3</sup> Frontage in the Shoreland District refers to both road and lake frontage.

**Table 2-1 (continued)**  
**Londonderry Zoning District Uses and Dimensional Standards**

	Residential Districts			Commercial Districts			Conservation Districts		
	Village Res.	Rural-Res.-1	Rural-Res.-3	Village Comm.	Service Comm.	Recreation Comm.	Shore-land	Resource Conserv.	Flood Haz.
Country Inn (See Section 305)	CU	CU	CU						
Cultural Facility	CU	CU		CU	CU	CU			
Day Care Fac.< 6 child (See Section 306)	P	P	P	P	P	P	P		
Day Care Fac. > 6 child (See Section 306)	CU	CU	CU	CU	CU	CU			
Excavation/Quarry (See Section 308)		CU	CU						
Forestry	P	P	P		P	P	P		
Garden, Farm Supply	CU	CU	CU	P	P	P			
Group Home< 6 resident (See Section 307)	P	P	P	P	P	P	P		
Group Home > 6 resident (See Section 307)	CU	CU	CU	CU					
Health Care Facility	CU	CU		CU	CU				
Home Occupation (See Section 309)	P	P	P	P	P	P	P		
Hotel, Motel, Inn				CU		P			
Indoor Recreation				CU		CU			
Kennel		CU	CU		CU				
Light Industry (See Section 310)					CU				
Mixed Use (See Section 311)	CU			CU	CU	CU	CU		
Mobile Home Park (See Section 312)		CU	CU						
Multi-Family Dwelling	CU	CU		CU		CU			
One/Two Family Dwel.	P	P	P	P	P	P	CU		
Outdoor Recreation	CU	CU	CU	CU	CU	CU	CU		
Personal Service	CU			P	P	P			
Place of Worship	P	P		P		P			
Public Facilities/Services	CU	CU	CU	P	P	P			
Public Assembly Fac.	CU			P		P			
Public Utility	CU	CU	CU	CU	CU	CU			

**Table 2-1 (continued)**  
**Londonderry Zoning District Uses and Dimensional Standards**

	Residential Districts			Commercial Districts			Conservation Districts		
	Village Res.	Rural-Res.-1	Rural-Res.-3	Village Comm.	Service Comm.	Recreation Comm.	Shore-land	Resource Conserv.	Flood Haz.
Repair Service				P	P				
Resource Industry		CU	CU						
Restaurant (Drive-up windows & drive-thru lanes prohibited)				P	P	P			
Retail Store				P	P	P			
Subdivision (See Section 314)	P	P	P	P	P	P	P		
Telecomm. Tower (See Section 315)	CU	CU	CU	CU	CU	CU			
Veterinary Clinic	CU			CU	CU				
Wildlife Refuge		P	P				P		

## Section 204.

**(A) Resource Conservation Overlay (RCO) District.** The town is fortunate to have a landscape that is diverse and pleasing. However, some of our geography is quite sensitive environmentally such as deeryards, game corridors, flood prone and aquatic resources, high elevations and steep slopes. Development in these areas should be reviewed carefully with the applicant and the Development Review Board (per section 503) to encourage development that recognizes sensitive environmental and aesthetic considerations.

The Town has limited the Conservation Overlay District to only the most sensitive areas: Lowell Lake, the higher elevations of Glebe Mountain and Cobble Hill and the Bear Corridor between them. In reviewing development in these sensitive areas, the Development Review Board may consult with the Conservation Commission. Development and building within the Conservation District will be reviewed with the applicant based on the following considerations as well as the usual review for the zoning district involved.

- (1) **Allowed Uses.** Excluding Agriculture, Forestry and Subdivision, the Development Review Board will review development in the Resource Conservation Overlay District in respect to the purpose and objectives of the RCO District in this section and conditional use review (section 503).
- (2) **Subdivision Review.** The Development Review Board will review subdivision in the Resource Conservation Overlay District in respect to the purpose and objectives of the RCO District in this section and the usual site plan review (Section 314 and 504).
- (3) **Development Considerations.** The following considerations may be reviewed for development, excluding agriculture and forestry, within the Resource Conservation Overlay District:
  - (a) The Town may recommend building envelopes within this district to take environment and ridgeline protection into account and other significant natural or scenic features.
  - (b) Conditions to protect agriculture, forestry, adjoining landowners, natural resources, and scenic features such as setbacks, landscaping size and location of building envelopes, clustering of development, may be required if appropriate in association with Conditional Use Review per Section 503 and/or Site Plan Review per Section 504.
  - (c) Development, including grading, clearing and construction of driveways, shall provide for the retention of native topsoil, stabilization of steep slopes and the prevention of erosion and consequent sedimentation of streams and watercourses.
  - (d) Access roads, driveways and utility corridors within this district shall, to the extent feasible use or share existing accesses; follow contours and linear features (such as tree lines and stone wall); and avoid or minimize stream and wetland crossings.

- (e) Buildings within this district should be sited, to the extent feasible, to minimize the impact on scenic vistas. Generally, clearing for views should be limited to modest view openings between the tree line. Subdivisions of four (4) or more building lots shall be reviewed as a Planned Unit Development (PUD) in accordance with Section 505.
- (4) **Exemptions.** The following development shall not be subject to review under this Section, in accordance with the provisions set forth below.
  - (a) Reconstruction, alteration and/or expansion of structures in existence prior to the effective date of this ordinance, provided that such alteration/expansion does not result in total aggregate floor area of the building in excess of 150% of the total floor area in existence as of [the effective date of this ordinance].
  - (b) The construction of a single family residence and/or accessory on a lot that has been approved by the Development Review Board after the effective date of this ordinance, in accordance with this Section, provided that a building envelope has been delineated for said lot in accordance with the standards set forth in subsection (3), above.

(B) **Shoreland District.** Within the Shoreland District, the following standards shall apply to all development:

- (1) Except as provided for lake access under (b) below, a vegetated buffer 50 feet in depth shall be maintained along the length of the shoreline. No cutting of trees greater than 4 inches in diameter within this buffer shall be allowed except, with approval of the Administrative Officer, the removal of damaged, diseased or dead trees, or selective pruning to maintain views. This buffer width may be modified as appropriate due to site conditions under site plan or conditional use review.
- (2) One access of a width no greater than 20 linear feet, measured parallel to the shoreline, is allowed per lot or per 500 feet of shoreline frontage, unless otherwise provided for under site plan or conditional use review. Cleared openings legally in existence on the effective date of this regulation may be maintained, but shall not be enlarged except as permitted herein. Access paths, stairways and ramps should be designed and maintained to avoid conducting runoff into the lake.
- (3) Structures permitted within the shoreline setback and access areas include temporary docks, temporary or permanent stairways and associated landing not exceeding 4 feet in width; and, subject to conditional use review under Section 503, stairways, landings and/or decks more than 4 feet in width, boat houses, permanent docks, and retaining walls only if it is found that such structures will not adversely impact water quality, significant natural or scenic features, or neighboring properties.
- (4) No use shall result in the removal of more than thirty percent (30%) of the forest cover on any parcel.

## **Section 205. Flood Hazard Overlay District**

(A) **Statutory Authorization.** Pursuant to the Act [Section 4424] and 10 V.S.A. Section 753 there are hereby established flood hazard area regulations for areas of special flood hazard in the Town of Londonderry.

(B) **Purpose.** It is the purpose of these regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas and to minimize losses due to floods by:

- (1) Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood or cause excessive increase in flood levels or velocities;
- (2) Requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction;
- (3) Protecting individuals from buying lands that are unsuited for their intended purposes because of flood hazard; and
- (4) Ensuring continued eligibility in the National Flood Insurance Program (NFIP).

(C) **Application of Regulations.** Any proposed use in the Flood Hazard Area must meet all the standards and criteria for development in the underlying district, after which it must meet the requirements of this overlay district. The requirements of this overlay district supersede those of the underlying district and render otherwise permitted uses conditional or non-permitted.

(D) **Lands to Which These Regulations Apply.** These regulations shall apply to all lands in the Town of Londonderry identified as areas of special flood hazard on the Federal Insurance Administration's most current set of Flood Insurance Rate Maps (FIRMs) for the Town, together with additional lands that may be identified by other available federal, state and local flood data. The Flood Insurance Rate Maps are hereby adopted by reference and declared to be part of these regulations.

### **(E) Base Flood Elevations and Floodway Limits**

- (1) Where available (i.e., Zones A1-A30, AE and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.
- (2) In areas where base flood elevations and floodway limits have not been provided (i.e., Zone A), base flood elevations and floodway limit information available from state or federal agencies shall be used to administer the provisions of these regulations.

(F) **Interpretation of District Boundaries.** The Administrative Officer shall determine the boundaries of Flood Hazard areas by scaling distances on the official Flood Insurance Rate Maps. Appeals with respect to a boundary interpretation shall be made by filing a notice with the secretary of the Development Review Board within fifteen (15) days of the decision or act.

(G) **Prohibited Uses.** Junkyards, as defined in Article VII of this bylaw, and storage facilities for chemicals, explosives, flammable liquids or other hazardous or toxic materials shall be prohibited.

(H) **Conditional Use Approval.** All development including fill, excavation, grading, erection or placement of structures, substantial improvements of existing structures, and storage of

equipment and material shall be permitted within flood hazard areas only upon the granting of conditional use approval by the Development Review Board in accordance with Section 503 of this bylaw.

**(I) Application Referral**

- (1) **State Review.** Prior to issuing a permit for any development in a flood hazard area, a copy of the application shall be submitted to the Vermont Department of Environmental Conservation in accordance with Section 604 of this bylaw. A permit may be issued only following receipt of comments from the Department or the expiration of thirty (30) days from the date the application was mailed to the Department, whichever is sooner.
- (2) **Notification.** Adjacent municipalities and the Vermont Department of Environmental Conservation shall be notified at least fifteen (15) days prior to issuing any permit of the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.
- (3) **State and Federal Approvals.** Prior to the approval by the Development Review Board, proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

**(J) Conditional Use Review Procedures.** The Development Review Board, proposed development shall hold a properly warned hearing within thirty (30) days of receiving an application, and shall act upon such application in accordance with Section 503 of this bylaw.

**(K) Application Requirements.** In addition to the information set forth in Section 502 of this bylaw, the applicant shall also provide three (3) copies of the following information:

- (1) The elevation (in relation to mean sea level) of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
- (2) The method and levels to which any structure will be flood proofed and certification by the applicant's engineer or architect that the design and proposed methods of construction are in accordance with the flood proofing requirements of these regulations;
- (3) Plans drawn to scale showing the existing and proposed contours and elevation of the lot; lot dimensions; size and location of the site of existing or proposed structures, fill or storage of material; location and elevations of streets, water supply and sanitary facilities; and the relation of the above to the location of the channel, floodway and base flood elevations;
- (4) A description of the extent to which any water courses will be altered or relocated as a result of the proposed development;
- (5) Base flood elevation data for subdivisions, including existing and proposed contours,

at one foot intervals, for any proposed building site and/or building envelope located within the flood hazard area;

- (6) Such other information deemed necessary by the Development Review Board for determining the suitability of the site for the proposed development; and
- (7) In addition to the above, the Development Review Board shall obtain from the Vermont Department of Environmental Conservation or other state or federal agencies, any available base flood elevation data.

**(L) Development Review Board Considerations.** In reviewing each application, the Development Review Board shall consider the following:

- (1) The evaluation of the Vermont Department of Environmental Conservation;
- (2) The danger to life and property due to increased flood heights or velocities caused by encroachments;
- (3) The availability of alternative locations not subject to flooding for the proposed development;
- (4) The susceptibility of the proposed improvement to flood damages;
- (5) The safety of access to the property caused by erosion;
- (6) The potential for damage to the property caused by erosion;
- (7) The danger that materials may be swept onto other lands or downstream to the injury of others or damage to property;
- (8) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions during flood events;
- (9) The conditional use standards set forth in Section 503 of this bylaw, and subsection (M) below; and
- (10) Such other factors as are relevant to the purposes of this bylaw.

**(M) Flood Hazard Area Standards.** Prior to approving an application for conditional use approval in flood hazard areas, the Development Review Board shall find that the proposed development meets or exceeds the following standards, as well as all other provisions of this bylaw.

- (1) All development and structures shall be designed (1) to minimize flood damage to the proposed development and to public facilities and utilities and (2) to provided adequate drainage to reduce exposure to flood hazards;
- (2) All development and structures shall (1) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occupancy of the base flood; (2) be constructed with materials resistant to flood damage; (3) be constructed by methods and practices that minimize flood damage; (4) be constructed with electrical, heating, gas, ventilation, plumbing and air conditioning equipment and other facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (3) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained;
- (4) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminated infiltration of flood waters into the systems and discharges

- from the systems into flood waters;
- (5) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
  - (6) New and replacement manufactured homes, including mobile homes, shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation;
  - (7) Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occupancy of the base flood;
  - (8) The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation;
  - (9) Existing buildings to be substantially improved for residential purposes shall be modified or elevated so that the lowest floor, including basement, is at or above the base flood elevation;
  - (10) Existing buildings to be substantially improved for non-residential purposes shall either meet the requirements of subsection (9), above, or be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for building proposed to be flood proofed shall not be issued until a registered 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.
  - (11) All new construction and substantial improvements with fully enclosed areas below the lowest floor (such as crawl space) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following criteria:
    - (a) A minimum of two (2) openings 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;
    - (b) The bottom of all openings shall be no higher than one (1) foot above grade; and
    - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
  - (12) Recreational vehicles placed on sites within Zones A-1 – A-30, AH and AE shall either (1) be on the site for fewer than one hundred eighty (180) consecutive days; (2) be fully licensed and ready for highway use; or (3) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).
  - (13) An evacuation plan for mobile home parks proposed in the Flood Hazard Area shall be submitted to the Town Civil Defense Director indicating alternative vehicular

access and escape routes; and

- (14) Such additional conditions as deemed necessary by the Board in order to meet the purposes and flood hazard requirements of these zoning regulations.

(N) **Appeals.** An interested person, as defined in Section 605, may appeal a decision of the Board to the Vermont Environmental Court in accordance with the provisions of Section 605 of this bylaw.

(O) **Variances to the Flood Hazard Area Development Standards.** The Development Review Board, after public hearing, may approve the repair, relocation, replacement or enlargement of a non-conforming structure within a regulated flood hazard area provided that the following criteria are met:

- (1) The Development Review Board finds that the proposed variance meets the criteria set forth in Section 606 of this bylaw, and meets the criteria for granting variances found in 44 CFR, Section 60.6, or the National Flood Insurance Program regulations;
- (2) The Development Review Board finds that during the base flood discharge, the repair, relocation, or enlargement of the nonconforming structure will not result in increased flood levels, threaten the health, safety and welfare of the public or other property owners.
- (3) Upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood.

(P) **Record Keeping.** The Administrative Officer shall maintain records of the following:

- (1) All permits issued for development in areas of special flood hazard;
- (2) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- (3) The elevation, in relation to mean sea level, to which buildings have been flood proofed;
- (4) All flood proofing certifications required under this regulation; and
- (5) All variance actions, including justification for their issuance. A copy of the permit granted by the Development Review Board shall be affixed to the copy of the deed of the concerned property on file in the municipal clerk's office.

(Q) **Warning of Disclaimer of Liability.** These regulations do not imply that land outside of the Flood Hazard Area or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not created liability on the part of the Town of Londonderry or any Town official or employee thereof for any flood damages that result from reliance on this bylaw or any administrative decision lawfully made there under.

## ARTICLE III. SPECIAL USE REGULATIONS

### Section 300. Specific Standards for Designated Uses

The following standards shall apply to the designated use in all zoning districts in which the respective uses are allowed. Such uses may be subject to either Site Plan Review in accordance with Section 504 and/or Conditional Use Review in accordance with Section 503. Variances from these standards shall only be granted by the Development Review Board. If there is a conflict between a standard in this section and a standard in another section of this Bylaw, the more restrictive standard shall apply.

### Section 301. Accessory Dwellings

(A) Accessory Dwelling/Apartment. There shall be only one principal structure per residential lot. However, one attached or detached accessory dwelling for use as residence for independent dwelling as defined under the Act and noted in section 701 may be approved by the Development Review Board for a residential lot on which a single family dwelling is the principal use. Accessory dwellings shall satisfy the standards set forth in Section 503 and meet the following requirements:

- (1) The residential lot must meet all current requirements for the district in which it is located. The accessory dwelling shall meet all setback requirements for the district in which it is located; or for an accessory dwelling attached to a non-complying structure, the accessory dwelling shall in no way increase the degree of non-compliance in accordance with Section 412. Total floor space shall not exceed 60 percent of the existing floor area of the single family dwelling or 1,000 square feet, whichever is less.
- (2) The applicant shall demonstrate that adequate water supply, septic system and off-street parking (Section 413) capacities exist to accommodate the residents of the accessory dwelling. Such septic system shall be designed or, in the case of pre-existing systems, certified as to its adequacy, by a registered Vermont engineer or a certified site technician.
- (3) The permit for the accessory dwelling shall clearly state that the dwelling is an accessory structure to the single family residence and shall be retained in common ownership. An accessory dwelling may only be subdivided and/or converted for sale or use as single family dwelling if it meets all existing municipal and state regulations applying to single family dwellings, including all density, dimensional and other requirements for the district in which it is located. Separate permits shall be required prior to subdivision, sale, and/or conversion.

### Section 302. Automobile Service Station

Automobile Service Stations, with or without repair garages, may be permitted in designated zoning districts subject to Site Plan Review in accordance with Section 504 and the following:

(A) Service station siting, design and layout shall be compatible with the character of the neighborhood. A landscaped area shall be maintained at least 5 feet in depth along all road frontage, excluding designated access areas or curb cuts. Landscaping requirements as set forth in Section 504 shall also be met. Additional curbing, landscaping and screening, and pedestrian

walkways may be required as appropriate.

(B) Pumps, lubricating and other outdoor service equipment shall be located to meet minimum setback distances for the applicable district.

(C) All stored fuel and oil, including underground tanks, shall meet all state fire codes and regulations, and shall be stored at least 35 feet from any property lines.

(D) All automobile parts and dismantled vehicles shall be stored within an enclosed building or suitably screened area.

(E) There shall be no more than 2 access driveways from the street. The maximum width of an access driveway or curb cut shall be 40 feet, with the minimum width to be 20 feet.

(F) Pump canopies shall be limited to the area required to cover the pump island and pump-apron, and shall be the minimum height necessary to satisfy applicable state and federal safety requirements. In no case shall canopies exceed 24' in width or 36' in length. Canopy design, including materials and roof pitch, shall be compatible with surrounding buildings; and the sides (fascias) of canopies shall not be used for advertising.

(G) Lighting levels on station aprons, under canopies and in associated parking areas shall be the minimum required for intended activities. The lighting of such areas shall not be used for advertising or to attract attention to the business. Lights shall not be mounted on the top or sides of canopies; and the sides of canopies (fascias) shall not be illuminated. Light fixtures mounted on canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded so that direct illumination is focused exclusively on the underside of the canopy. Outdoor lighting shall also meet applicable lighting standards under Section 410.

(H) Signs shall meet all requirements of section 418. No signs shall extend beyond the pumps.

(I) Automobile service stations which also include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food, convenience items) shall be reviewed as a mixed use, and as such be required in addition to meet all zoning provisions pertaining to such retail uses from the district in which they are located, including but not limited to additional sign, lot size and/or parking requirements.

(J) Automobile sales are allowed as an accessory use to an automobile service station providing that no more than five (5) automobiles are displayed for sale on site at any one time; one parking space for each automobile displayed on site is provided in addition to the minimum number of spaces set forth in Section 413, and; automobiles displayed for sale are not parked within setback areas.

### **Section 303. Campers and Recreational Vehicles**

(A) No camper (travel trailer, recreation vehicle) shall be parked on any public or private property except in conformance with the following regulations:

- (1) Campers are permitted to be parked in approved campgrounds, sales establishments and, for temporary periods, on construction sites (subject to Section 420).
- (2) Registered campers for residents and family use only may be parked on the premises of a principal dwelling provided that it is parked in the rear or side yards and no

closer than six (6) feet to any lot line; is not occupied for dwelling purposes for more than thirty (30) days per calendar year; and is not hooked up to residential water or wastewater systems. Temporary (less than 30 days) location of campers and RV's is permitted for servicing.

- (3) Any camper used for living quarters for more than thirty (30) days per calendar year, or is sited so as not to be readily moveable, shall be deemed an accessory dwelling and shall be subject to all zoning regulations applicable to accessory dwellings (see Section 301) as appropriate.

(B) Any wastewater or sewage generated by a camper shall be disposed of off-site in accordance with all applicable state and federal regulations.

### **Section 304. Campgrounds**

Campgrounds may be approved within designated zoning districts subject to referrals to state agencies under Section 604, Site Plan Review in accordance with Section 504 and Conditional Use Review in accordance with Section 503. In addition, the following specific standards must be satisfied:

(A) A minimum of five (5) acres is required for new campgrounds, with at least 25 percent of the total ground area to be set aside for recreation of open space purposes.

(B) All campgrounds shall meet minimum setback requirements for the districts in which they are located. A strip of land at least 100 feet in depth shall be maintained as a landscaped buffer area along all property lines and rights-of-way. No camper or recreation vehicle, tent camp site, cabins, parking area or service building shall be located in this buffer area. These areas shall be landscaped with existing or planted trees, or other plant materials for screening purposes. This landscaping provision may be reduced if such a modification will make it possible to preserve a scenic view, providing that privacy for adjacent property owners is maintained. Additional landscaping and fencing along property boundaries also may be required as appropriate for screening, security, and to provide privacy.

(C) Individual camping sites shall be located in clean, dry, and well-drained areas. Each camping site, with the exception of primitive camping sites located on state or federal lands, shall be:

- (1) At least 2,500 square feet in area; each travel trailer and recreation vehicle site shall have a compacted gravel surface at least 12 feet wide and 25 feet long;
- (2) Provided with a suitably surfaced, individual access driveway and parking area;

(D) All roads within the campground shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. Proper traffic control signs shall be established. The design of roads shall be adequate to provide access for police, fire, ambulance and other emergency service vehicles. Collector roads within the campground shall meet the following minimum standards:

<b>Table 3.1 Campground Road Standards</b>		
	<b>One-way Roads</b>	<b>Two-way Roads</b>
Right-of-Way Width	18 feet	33 feet
Travel Surface Depth	12 inches	12 inches
Travel Surface Width	10 feet	20 feet

(E) Except for undeveloped, primitive camping areas located on public and/or private lands, campgrounds shall provided for potable water, shower and toilet facilities sufficient to accommodate the number of proposed camp sites, in accordance with applicable municipal, state and federal regulations.

**Section 305. Country Inns**

(A) Country inns, excluding bed and breakfasts as defined under Article VII, may be permitted in designated zoning districts subject to Site Plan Review in accordance with Section 504 and Conditional Use Review in accordance with Section 503 and the following provisions:

- (1) The country inn shall have a minimum lot size of two (2) acres, or larger as otherwise established fro the applicable zoning district. Not more than twenty-five (25) double occupancy or equivalent guest rooms may be permitted.
- (2) Minimum setbacks from side and rear boundaries for any building, structure, or amenity to be used by guests shall be one hundred (100) feet. Off street parking shall conform to Section 413. Parking shall be located at the side or rear of the main building unless otherwise approved under Site Plan Review.
- (3) On-site dining facilities may, with Development Review Board approval pursuant to Section 503, be open to the general public providing such facilities are operated as an amenity for guests of the country inn.

**Section 306. Child Care Facility**

(A) In accordance with the Act [Section 4412 (5)], a state registered or licensed child care facility located within a single family residence serving six (6) or fewer children in addition to the care giver’s own children, shall be considered by right a constitute a permitted single family residential use of the property. No site plan approval shall be required. However, no zoning permit shall be issued by the Administrative Officer until the applicant for a day care facility proves that the facility is properly registered or licensed by the state to accommodate not more than six (6) children; meets all zoning requirements of single family dwellings; and fulfills the application requirements of Section 601 of this Bylaw.’

(B) Day care facilities serving more than six (6) children may be permitted within designated zoning districts subject to Site Plan Review in accordance with Section 504 and Conditional Use Review in accordance with Section 503.

### **Section 307. Residential Care Home or Group Home**

(A) In accordance with the Act [Section 4412 (1)(G)], a state licensed or registered residential care home or group home, serving not more than eight (8) persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be considered if it locates within one thousand (1,000) feet of another community care or groups home. No site plan approval shall be required; however, no zoning permit shall be issued by the Administrative Officer until the applicant for a group home facility:

- (1) Submits proof that the facility is properly registered or licensed by the state to accommodate not more than eight (8) persons, excluding on-site caregivers;
- (2) Meets all zoning district requirements pertaining to single family dwellings; and
- (3) Fulfills the application requirements of Section 601.

(B) Group homes or community care facilities serving more than eight (8) persons may be permitted within designated zoning districts subject to Site Plan Review in accordance with Section 504 and Conditional Use Review in accordance with Section 503.

### **Section 308. Excavation and Quarrying**

(A) The removal of soil, sand, rock, stone, or gravel, except when incidental to the construction of a building on the same premises, may be permitted in designated zoning districts subject to Site Plan Review in accordance with Section 504 and Conditional Use Review in accordance with Section 503 and, findings that the proposed activity meets the standards below in addition to any other applicable standards contained in this Bylaw, including but not limited to performance standards under Section 414. Any zoning permit issued for such operations shall be limited to a period not to exceed five (5) years, subject to renewal under Section 601 and these provisions.

(B) **Application Requirements.** In addition to application requirements under Section 601 and 502, the applicant shall submit two (2) copies of proposed erosion control and site restoration plans, showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation.

(C) In granting conditional approval, the Development Review Board shall find that the proposed activity will not cause any hazard to public health or safety, or otherwise have an undue adverse effect on:

- (1) Neighboring properties and uses;
- (2) Public facilities and services;
- (3) Surface and ground water; or
- (4) The scenic or natural beauty of the area, other aesthetic values, historic sites or rare or irreplaceable natural resources or areas.

(D) In granting approval, the Development Review Board may consider and impose conditions

with respect to the following factors as it deems appropriate:

- (1) Depth of excavation or quarrying above the water table;
- (2) Slopes created by removal;
- (3) Effects on surface drainage on and off-site;
- (4) Storage of equipment and stockpiling of materials on-site;
- (5) Hours of operation for blasting, trucking, and processing operations;
- (6) Effects on neighboring properties due to blasting, excavation or crushing activities, or other noise, dust, or vibration;
- (7) Effects on traffic and road conditions, including potential physical damage to public highways;
- (8) Creation of nuisances or safety hazards;
- (9) Temporary and permanent erosion control;
- (10) Effect on ground and surface water quality, and drinking water supplies;
- (11) Effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
- (12) Effect on agricultural land; and
- (13) Site reclamation.

**(E) Surety Requirement.** In accordance with the Act [Section 4446 (2)] a performance bond, escrow account, or other surety acceptable to the Select board shall be required to ensure site reclamation upon completion of excavation projects, to include any regarding, reseeding, reforestation or other activities that may be required. Per statute, this provision specifically does not apply to mining or quarrying operations; however upon failure of the permit holder, their successors or assigns to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.

### **Section 309. Home Based Businesses**

**(A) Home Occupation.** In accordance with the Act [Section 4412 (4)] no provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area. A home occupation shall be permitted which is customarily conducted entirely within a dwelling or accessory structure and carried on by the occupants thereof, and which is clearly incidental and secondary to the use for dwelling purposes, and does not change the character of the dwelling or the neighborhood [[see Cottage Industry under this section](#)].

A permit application shall be submitted to the Zoning Administrator so that a determination can be made as to whether the proposed use is a home occupation as defined by these regulations.

Home occupations, as distinguished from cottage industries under this Section, are permitted as an accessory use in all districts where residential uses are permitted subject to Site Plan Review in accordance with Section 504 and the following provisions:

- (1) The home occupation shall be conducted on-site by residents of the dwelling and no more than two non-resident employees.
- (2) The home occupation shall be carried on within a minor portion of the dwelling or an accessory building such as a garage or barn. In no case shall the home occupation occupy greater than 50% of the combined floor area of all structures on the lot.
- (3) Exterior displays of goods and wares, the exterior storage of materials, or other exterior indications of the home occupation, including alterations to the residential character of the principal or accessory structures shall not be permitted.
- (4) No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use in the neighborhood.
- (5) No additional wastewater shall be generated.
- (6) Home occupations shall conform to all performance standards under Section 414.
- (7) Off street parking shall be provided to accommodated residents and non-resident employees, as required under Section 413.
- (8) The home occupation shall have no advertised or published regular hours when the premises are open to the public. One unlit exterior sign is permitted in accordance with Section 418.
- (9) The zoning permit shall clearly state that the use is limited to a home occupation, approved in accordance with the above provisions, which is accessory to the principal residential use and shall be retained in common ownership and management. Any proposed expansion of the home occupation beyond that permitted will require a separate zoning permit for a cottage industry under this section, or other use as appropriate.

**(B) Cottage Industries.** Cottage industries or home based businesses (as distinguished from Home Occupations-see Definitions) may be permitted in designated zoning districts subject to Site Plan Review in accordance with Section 504 and Conditional Use Review in accordance with Section 503 and the following additional provisions:

- (1) The business owner shall reside on the lot.
- (2) The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall occupy less than 50 percent of the combined floor area of all structures on the lot. However, the Development Review Board may permit the use of floor space in excess of 50 percent of the combined floor area of all structures on the lot providing such space is limited to the storage of goods and materials associated with the operation of the Cottage Industry and that such storage occurs in an accessory structure.

- (3) The business shall not necessitate any change in the outward appearance of the dwelling unit or accessory structures on the lot other than the addition of one, non-illuminated sign that meets the requirements of Section 418.
- (4) The residents of the dwelling unit and no more than six (6) non-resident employees may be employed on-site at any one time.
- (5) The business shall not generate traffic, including but not limited to delivery truck traffic, in excess of volumes that are characteristic of the neighborhood.
- (6) Adequate off-street parking shall be provided for all residents, employees and customers in accordance with Section 413.
- (7) There shall be no storage of hazardous waste or materials; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.
- (8) The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, any outdoor storage of materials, including building or construction materials, unregistered vehicles or heavy equipment, firewood or lumber, must be completely screened year-round from the road and from neighboring properties.
- (9) On-site wholesale and/or retail sales shall be primarily limited to products produced on the premises. The sale of products produced off-premises shall be of a similar nature to those produced on-premises and shall not exceed 35 percent of total gross sales.
- (10) The business shall not result in hazards to public safety and welfare or to neighboring properties, and shall be subject to applicable lighting standards under Section 410 and performance standards included under Section 414. Conditions may be placed on the hours of operation as appropriate.
- (11) The permit for a cottage industry shall clearly state that the industry is a home-based business which is accessory to the principal residential use, and shall be retained in common ownership and management. A cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.

### **Section 310. Light Industry**

Light industry (as distinguished from cottage industries under Section 309 and resource industries under Section 313) may be permitted in designated zoning districts subject to Site Plan Review in accordance with Section 504, Conditional Use Review in accordance with Section 503, and conformance with the following provisions:

- (1) The ratio of total floor area to lot area shall not exceed 25 percent of the lot or 30,000 square feet, whichever is less.
- (2) All light industry shall meet minimum setback requirements for the district in which

it is located. In addition, a strip of land at least fifty (50) feet in depth shall be maintained as a landscaped buffer area along all property lines and rights-of-way. No parking, building or other structure shall be located in this buffer area. Landscaping and fencing along property boundaries also by be required as appropriate for screening, safety and security.

- (3) Industrial uses are limited to those manufacturing, fabrication, processing or warehousing activities which produce no undue noise, vibration, noxious emissions, air or water pollution, fire or explosion hazard which would endanger or unduly disturb neighboring properties. Such uses must comply with all performance standards under Section 414; additional conditions may be imposed as appropriated to protect public health, safety, and welfare, municipal facilities and services, and other public investments.
- (4) All aspects of the industrial process shall be carried out within the principal building. Accessory structures are to be used only for the storage of equipment and materials, or accessory uses such as office space.

### **Section 311. Mixed Uses**

In designated districts, more than one use may be permitted within a single building or on a single property subject to Site Plan Review in accordance with Section 504 and/or Conditional Use in accordance with Section 503 and providing those uses meet the following: Each of the proposed uses are otherwise allowed as permitted or conditional uses in the district in which the mixed use is proposed. The combined land uses meet all applicable standards for the district.

### **Section 312. Mobile Home Parks**

Mobile home parks shall be developed in accordance with the procedures for Planned Unit Development (Section 505) and applicable state requirements 10 V.S.A., Chapter 153 Where there is a conflict between the provisions of this bylaw and state regulations, the latter shall take precedence.

### **Section 313. Resource Industry (In Residential Districts)**

Resource Industry (as distinguished from cottage industries under Section 309 and light industries under Section 310) may be permitted in designated zoning districts subject to Site Plan Review in accordance with Section 504, Conditional Use Review in accordance with Section 503, and conformance with the following provisions:

- (1) Resource industries shall be limited to the processing and manufacturing of goods from raw forest and agricultural materials and shall comply with all performance standards under Section 414. Additional conditions may be imposed as appropriate to protect public health, safety, and welfare, municipal facilities and services, and other public investments.
- (2) Resource industries in residential districts shall occupy a lot of not less than ten (10) acres and ground floor area shall not exceed 30,000 square feet.
- (3) Resource industry shall meet minimum setback requirements for the district in which it is located. In addition, a strip of land at least 75 feet in depth shall be maintained as

a landscaped buffer area along all property lines and rights-of-way. No building or other structure shall be located in this buffer area. Landscaping shall be provided in accordance with Section 504. Additional landscaping and fencing along property boundaries also may be required as appropriate for screening, safety and security.

- (4) All aspects of the industrial process shall be carried out within the principal building. Accessory structures are to be used only for the storage of equipment and materials, or accessory uses such as office space.

### **Section 314. Subdivision**

The subdivision of a single parcel into two or more parcels is permitted subject to Site Plan Review in accordance with Section 504 of this bylaw and the following:

- (1) All proposed lots shall meet the minimum dimensional standards for the district within which the lot is located. New lots shall be designed to meet their intended purpose; elongated lots and lots with irregular shapes (curves, jogs, dog-legs, etc.) should not be created unless warranted by conditions of topography, the location of natural features or existing road conditions. Corner lots shall have sufficient width to permit a front yard setback on each street while side lot lines shall generally be at right angles to straight streets, or radial to curved street lines.
- (2) Existing features, including but not limited to water courses and drainage ways, pathways, historic sites and structures, shore lands, fence and tree lines, wetlands, critical wildlife habitat, areas characterized by shallow soils or steep slope, prominent geologic features, scenic views, or any other unique features which have been identified in the Londonderry Town Plan and/or which in the Commission's judgment are an asset to the site and/or community, shall be identified and preserved insofar as possible through harmonious design and appropriate lot configuration.
- (3) Subdivision boundaries, lot layout and building sites shall be located and configured to avoid the fragmentation and/or development of productive farmland. Methods for avoiding such adverse impacts include but may not be limited to the following:
  - (a) Building sites may be restricted to wooded areas at field edges or, in the event that no other land is practical for development, on the least fertile soils in order to minimize the use of productive agricultural land, impacts on existing farm operations, and disruption to the scenic qualities of the site.
  - (b) Access roads, driveways and utility corridors shall be shared to the extent feasible and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these in order to minimize the fragmentation of productive agricultural land and minimize visual impacts.
- (4) Land shall be subdivided and improved so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. The Commission may require the preparation and implementation of a sedimentation and erosion control plan to ensure that site improvements, including excavation, road and driveway construction and site clearing and grading, shall not unduly impact neighboring properties or surface waters. Such a plan, if required, shall be prepared by a licensed Vermont Engineer.

- (5) The proposed subdivision will not create an undue burden on public facilities or create an unreasonable demand for public services, including but not limited to fire and police protection, schools and area roads and highways.
- (6) Access roads, driveways and utility corridors shall meet the standards set forth in Section 402. All roads serving four (4) or more individual lots shall be designed in accordance with the Town of Londonderry Road Ordinance administered by the Select Board. They shall generally conform to the design standards for local roads and streets contained within the *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets*, dated October, 1997, or as subsequently amended. Compliance with this standard does not infer any obligation on the part of the Town to assume responsibility for future road maintenance or upgrade. Access to three (3) or less lots shall be determined by the Development Review Board per section 402.
- (7) Driveways serving individual lots generally shall comply with the Vermont Agency of Transportation's Standard B-71 for residential and commercial driveways, as most recently amended. Driveways shall be accessible by emergency service vehicles, and shall logically relate to topography so as to ensure reasonable grades and safe intersections with public or private roads. For driveways in excess of 500 feet in length, a 10'x30' turnout may be required.
- (8) Proposed building lots shall be served by adequate water supply and wastewater disposal systems. The Development Review Board may require documentation that adequate water supply and wastewater capacity is available to serve the proposed development, and that wastewater disposal systems be designed by a licensed Vermont professional engineer or a certified site technician.

### **Site 315. Telecommunications Towers**

(A) New or expanded telecommunications facilities, including but not limited to towers and accessory structures; may be permitted in designated zoning districts subject to Site Plan Review in accordance with Section 504, Conditional Use Review in accordance with Section 503, and the following provisions:

- (1) A proposal for a new tower shall not be permitted unless it is determined by the Development Review Board that the equipment planned for the proposed tower cannot be accommodated on an approved tower or existing building or structure.
- (2) All new towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least one additional user if the tower is less than or equal to 75 feet in height, and two additional users if it exceeds 75 feet in height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights.
- (3) All towers, including antenna, shall be less than 100 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.
- (4) No wireless telecommunication site shall be located within 200 feet of an existing residence.

- (5) Towers shall be set back from all property lines and public rights-of-way for a distance equaling their total height, including attached antennas, unless otherwise permitted by the Development Review Board:
  - (a) if tower design and construction guarantees that it will collapse inwardly upon itself, and no liability or risk to adjoining or public property shall be assumed by the municipality; or
  - (b) to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public safety or welfare results.
- (6) Tower construction and wiring shall meet all state and federal requirements, including but not limited to FCC requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety.
- (7) New towers shall be located to minimize their visibility. No tower shall be located on an exposed ridge line or hill top. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques. Commercial wireless towers shall be of a mono-pole design unless it is determined that an alternative design would better blend into the surrounding environment.
- (8) Towers shall be enclosed by security fencing at least 6 feet in height; and shall be equipped with appropriate anti-climbing devices.
- (9) Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower.
- (10) The use of any portion of a tower for signs other than warning or equipment information signs is strictly prohibited.
- (11) All utility buildings and structures accessory to a tower shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate to site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed under ground.
- (12) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease which requires the applicant to remove the tower and associated facilities shall be submitted at the time of application. A bond or other acceptable form of surety may be required to ensure tower removal and site reclamation.

(B) In addition to the site development plan required under Section 504, applications for new towers shall also include the following:

- (1) A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
- (2) Information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available.
- (3) A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (4) Proof that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration;
- (5) Any additional information needed to determine compliance with the provisions of this bylaw.

(C) Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, or other structures such as church steeples or agricultural silos, may be permitted by the zoning administrator without conditional use or Site Plan Review provided that:

- (1) No changes are made to the height or appearance of such structure except as required for mounting;
- (2) The height of the antenna as mounted does not exceed height requirements under Section 407;
- (3) No panel antenna shall exceed 72 inches in height or 24 inches in width;
- (4) No dish antenna shall exceed 3 feet in diameter;
- (5) Any accompanying equipment shall be screened from view.

(D) The following are specifically exempted from the provisions of this bylaw:

- (1) A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level.
- (2) All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

## ARTICLE IV. GENERAL REGULATIONS

### Section 400. Applicability

The following general standards, including provisions required under the Act [Section 4412, 4413], apply to all uses and structures as specified within the Town of Londonderry.

### Section 401. Abandonment of Structures

Within one (1) year after a permanent or temporary building or structure has been substantially destroyed or demolished, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the property owner.

### Section 402. Access and Frontage Requirements

(A) In accordance with the Act [Section 4412(3)], no land development may be permitted on lots which do not have either frontage on a maintained public road [Class I, II, III, state] or public waters, or with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way at least fifty (50) feet in width. An access road or driveway may serve a maximum of three (3) lots including frontage lots. Roads serving more than three lots must meet the Town of Londonderry Road Ordinance as adopted by the Select board.

Access onto public roads shall also be subject to the approval of the Londonderry Select board, and for state highways (Vermont Routes 11 and 100), the Vermont Agency of Transportation. As a condition to such permits, compliance to all local ordinances and regulations pertaining to highways and land use shall be required. The Select Board and/or Agency may, as a condition of the permit, provide for the elimination of accesses previously permitted and require the construction of a common frontage road or other access improvements which may serve more than one property or lot [19 V.S.A., 1111(f)].

For access subject to Development Review approval, the Development Review Board may consider intended use, safety, traffic, lot configuration and road and site conditions in granting or denying approval. Lots created after the effective date of this Bylaw are subject to all access and/or frontage requirements contained herein, as well as applicable provisions under Subdivisions (Section 314), and Site Plan Review (Section 504).

(B) No lot shall be served by more than one (1) access road or driveway unless otherwise permitted under Subdivision (Section 314) and Site Plan Review (Section 504). Accesses (curb cuts) are to be installed in accordance with municipal and/or state regulations, and shall not be permitted to extend along the length of road frontage. Driveways are to be located at least one hundred (100) feet from a street or highway right-of-way intersection for all uses, except one- and two-family residential uses, which shall be at least fifty (50) feet from the same.

### **Section 403. Compliance with State and Federal Regulations**

All development shall comply with applicable state and federal regulations. In reviewing applications for Conditional Use approval under Section 503, Site Plan Review approval under Section 504 or Planned Residential Development or Planned Unit Development approval under Section 505 of this bylaw, the Appropriate Municipal Panel may require documentation of compliance with applicable regulations as a condition of approval.

### **Section 404. Conversions and Changes of Use**

Changes or conversions in the use of land and/or an existing structure are subject to the provisions of this bylaw as follows: The proposed use shall meet all requirements of this bylaw pertaining to such use, including but not limited to any district, parking, access and/or wastewater disposal requirements, as well as any other applicable municipal, state or federal regulations currently in effect.

### **Section 405. Existing Small Lots**

(A) In accordance with the Act [Section 4412(2)], any lot in individual and nonaffiliated ownership from surrounding properties in existence on the effective date of this Bylaw may be developed for the purposes permitted in the district in which it is located and in accordance with all applicable requirements of this Bylaw, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth of an acre in area with a minimum width or depth of forty (40) feet.

(B) Pre-existing, undeveloped small lots in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots shall be deemed merged with the contiguous lots for the purpose of this Bylaw. However, such lots shall not be deemed merged, and may be separately conveyed, if the lots are conveyed in their pre-existing, non-conforming configuration; and on the effective date of this Bylaw, each lot had been developed with a water supply and wastewater disposal system; and at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and, the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems in case a wastewater system fails, pursuant to the Act [Section 4412 (2)(B)].

### **Section 406. Flammable Liquids, Outdoor Storage of**

(A) Any application received for a zoning permit which includes the above ground storage of highly flammable liquids, excluding fuel storage customary to normal residential use, shall be referred by the Administrative Officer to the fire department serving the district in which it is located for review.

(B) The storage of any highly flammable liquid in tanks above ground with a unit capacity greater than five hundred and fifty (550) gallons shall be permitted, subject to Conditional Use Review under Section 503, and only in conformance with the following provisions:

- (1) Tanks up to and including a ten thousand (10,000) gallon capacity shall be placed not less than eighty (80) feet from all property and street lines.

- (2) Tanks of more than a ten thousand (10,000) gallon capacity shall be placed not less than two hundred (200) feet from all property and street lines.
- (3) All tanks shall be properly retained with dikes having a capacity of not less than one and one-half (1.5) times the capacity of the total tank capacity.

#### **Section 407. Height Structure**

(A) The maximum height of structures in all districts shall be three (3) stories or 35 feet whichever is less, as measured from the lowest natural grade at ground level, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements of this Bylaw:

- (1) Agricultural structures in accordance with the Act ;{Section 4413 (d)
- (2) Church steeples, spires and belfries;
- (3) Accessory structures associated with residential use which are less than 50 feet in height above the lowest grade at ground level, including antennas, flag poles, ornamental cupolas, chimneys, wind generators with blades less than 20 feet in diameter, and rooftop solar collectors.

(B) The Development Review Board may permit structures in excess of 35 feet subject to Conditional Use Review under Section 503, provided that:

- (1) The structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) The portion of the structure above 35 feet shall remain unoccupied except for normal maintenance;
- (3) All required front, side and rear yard setbacks are increased by, at minimum, one foot for each foot of height over 35 feet;
- (4) The structure is not to be used for advertising purposes;
- (5) Access to the structure, particularly for climbing, is restricted;
- (6) Adequate fencing and screening are provided as appropriate;
- (7) Lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation (see Section 410);
- (8) The proposed building height and scale is consistent with the character of the immediate surroundings;
- (9) All applicable performance standards under Section 414 are met.

#### **Section 408. Housing Equal Treatment of Housing**

(A) Pursuant to the Act [Section 4412], mobile homes, modular housing or other forms of prefabricated housing shall not be excluded by these regulations except upon the same terms and

conditions as conventional housing.

(B) Pursuant to the Act [Section 4412], these regulations shall not have the effect of excluding from the municipality housing intended to meet the needs of the population as determined in the Town Plan or other planning analyses.

(C) Pursuant to the Act [Section 4412], special provisions for mobile home parks are established in Section 312 of this Bylaw. (Treated as Planned Development Section 505).

(D) Pursuant to the Act [Section 4412], These regulations shall not have the effect of excluding as a permitted use one accessory dwelling unit that is located within or attached to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- (i) The property has sufficient wastewater capacity.
- (ii) The unit does not exceed 30 percent of the total habitable floor area of the single family dwelling.
- (iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met. 24 V.S.A. § 4412 (1)(E)

#### **Section 409. Landfill**

In any district, dumping of refuse and waste material for landfill is prohibited. Loam, rock, stone, gravel, sand, cinder, and soil may be used for fill to grades approved by the Administrative Officer.

#### **Section 410. Lighting Standards**

(A) **Intent.** It is recognized that some outdoor lighting may be necessary for security and safe operation. But inappropriate or poorly designed or installed lighting can create unsafe conditions and a nuisance for adjoining property owners, cause sky glow which obstructs night views of the sky, and result in the unnecessary use of electric power. To ensure appropriate lighting while minimizing its undesirable effects, the following general and specific standards pertaining to outdoor lighting are established.

(B) **General Standards.** The following general standards apply to all outdoor lighting installations:

- (1) All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which it is located.
- (2) Outdoor lighting fixtures shall not direct light beyond the boundaries being illuminated or onto adjacent properties, roads, or public waters, shall minimize glare, and not result in excessive lighting levels which are uncharacteristic of a rural area.
- (3) Outdoor lighting fixtures are to include timers, dimmers, and/or sensors wherever practicable to reduce energy consumption and eliminate unnecessary lighting.

(C) New or replacement outdoor lighting associated with normal and customary residential activities may be installed without a zoning permit providing the following standards are met:

- (1) Permanent outdoor lighting fixtures shall be cast downward and designed to minimize glare. Such fixtures may include recessed, shielded or cutoff fixtures, and/or low luminance lamps (150 watts/2,000 lumens or less).
- (2) Pole mounted lighting fixtures are not to be mounted more than twelve (12) feet in height above the average grade at ground level as measured to the bottom of the fixture; wall mounted lighting fixtures are not to be mounted above a building's fascia on gable and eave ends.

(D) Non-residential outdoor lighting involving the installation or replacement of three or fewer fixtures (freestanding or wall-mounted) may be approved by the zoning administrator, provided that requirements under Subsection (C) are met, no single lamp (bulb) exceeds 150 watts, and the total wattage of all installations does not exceed 450 watts.

(E) All other exterior lighting installations, including replacements, shall be subject to Conditional Use Review under Section 503 and the following provisions:

- (1) Information regarding exterior lighting fixtures, including fixture type, mounting location and height, illumination levels and distribution, and color shall be submitted as part of the conditional use application. A lighting plan, prepared by a qualified engineer or lighting expert, may be required as appropriate for larger projects.
- (2) Unshielded area lights, low pressure sodium and mercury vapor lights, and exterior neon lights are specifically prohibited. Incandescent, metal halide or color corrected high pressure sodium lights are encouraged as appropriate for the intended use.
- (3) Exterior lighting installations shall incorporate downwardly cast cut-off, shielded, recessed and/or low intensity (150 watts/2000 lumens or less) fixtures designed for the maximum control of glare.
- (4) The maximum mounting height of any lighting fixture shall not exceed twenty (20) as measured from the average grade at ground level to the bottom of the fixture.
- (5) Electrical service to outdoor lighting fixtures shall be underground unless the fixtures are mounted directly on utility poles.
- (6) Security lighting may be allowed only if unusual or hazardous conditions require it. Security lighting, where deemed necessary shall be shielded and aimed so that illumination is directed only on to the designated area and not cast on other areas.
- (7) Street lighting, except where specifically required for safety, is prohibited in all but the Village Residential (VR), Village Commercial (VC) and Recreation Commercial (RC) Districts. Within these districts, street lights are to be located within the designated rights-of-way.
- (8) With the exception of structures having exceptional symbolic or historic significance to the community (e.g. churches and/or public buildings), exterior building facades should not be illuminated. When buildings of significance are to be illuminated, to the extent practicable lighting fixtures shall be directed downward or carefully located, aimed and shielded so that light is directed only onto the building façade. Lighting fixtures which are designed to "wash" the façade with light are preferred.

- (9) Additional lighting provisions may apply for specific use types subject to Conditional Use Review under Article 503 (Automobile Service Stations pursuant to Section 302 and Signs pursuant to Section 418).

(F) The Development Review Board may modify or waive the requirements of this section under Conditional Use Review pursuant to Section 503 if it finds that in so doing it will not jeopardize the intent of these regulations under subsection (A) and the general provisions under subsection (B), or such a modification or waiver is required to meet an overriding public purpose.

#### **Section 411. Lot, Setback and Yard Requirements**

(A) There shall be only one principal structure or one principal use and its associated structures per lot, unless otherwise specifically approved as a mixed use pursuant to Section 311. Provision is made for accessory uses and structures, home occupations, and other home-based industries or uses that are accessory to the principal use.

(B) For lot areas, lot frontage, lot depth and all yard setbacks, the requirement specified is the minimum standard to be met. For coverage, the requirement specified is the maximum permitted.

(C) No lot shall be so reduced in size that the area, setback, or other dimensions are smaller than those prescribed in this Bylaw, except as permitted for Planned Developments pursuant to Section 505.

(D) For lots in all districts, there shall be no hazard to vision within twenty-five feet of a street intersection or highway entrance between the height of three (3) feet and ten (10) feet above the average grade of each street.

(E) Setbacks are to be measured from the property line back to the closest point of the structure or object. On streets with less than a fifty (50) foot right-of-way or where the width of the street right-of-way is not established, however, the front-yard requirement shall be measured from the centerline of the existing roadway and twenty-five (25) feet shall be added to the front yard requirement.

(F) All yards adjoining a street shall be considered a front yard for the purpose of these regulations. Space required under this bylaw to satisfy area, yard, or other open space requirements in relation to one building shall not be counted as part of a required open space for any other building.

#### **Section 412. Non-Conforming Uses and Non-Conforming Structures**

Any structure, lot or any use of structure or land lawful on the effective date of this bylaw shall continue to be a lawful structure, lot or use, subject to the provisions of this section in accordance with Section 4412 of the Act.

(A) **Continuation.** Any non-conforming use or noncomplying structure may be continued indefinitely, but shall not be moved, enlarged, altered, extended, reconstructed or restored, except as provided below; nor shall any external evidence of a non-conforming use be increased by any means whatsoever.

(B) **Change.** A non-conforming use may be changed to another non-conforming use of equal or less intensity upon approval of the Development Review Board, but such use shall not then be permitted to change back to a more intensive non-conforming use.

(C) **Re-establishment.** A non-conforming use shall not be re-established or restored without the approval of the Development Review Board, if such use has been discontinued in whole or part for a period one (1) year, or has been changed to, or replaced by, a conforming use.

(D) **Repair or Reconstruction.** If any non-complying structure is destroyed to an extent of more than seventy-five percent (75%) of its value as appraised by the Town repairs or reconstruction shall be made only in accordance with this Bylaw. Where the cost of such repairs or reconstruction is less than seventy-five percent (75%) of its appraised value, it may be repaired or restored, provided that such work is commenced within one (1) year from the date of destruction and is diligently pursued.

(E) **Extensions or Enlargements.** Extensions or enlargements may be made to the complying portion of a non-complying structure in accordance with applicable requirements of this Bylaw.

### **Section 413. Parking and Loading Requirements**

(A) Off-street parking spaces shall be provided as set forth below. These represent the minimum standards permitted under this Bylaw. The Development Review Board may waive parking requirements under Subsection (D), or require more parking spaces or a different parking circulation and layout, subject to Site Plan Review under Section 504, based on a review of the site and/or proposed use.

#### **(B) General Parking Standards.**

- (1) A parking space shall be at least nine (9) feet by eighteen (18) feet.
- (2) A required driveway shall be not less than twenty (20) feet clear width, except for one and two family dwelling units, where it may be smaller.
- (3) Parking spaces may be located within setback areas, unless specifically prohibited under Site Plan Review; but shall not be located within required landscaped areas.
- (4) "Gross floor area" means the total floor area of the structure for which parking is to be used. This includes all public and non-public areas.

(C) **Specific Parking Standards.** A minimum number of parking spaces shall be provided in accordance with the requirements listing in Table 3.1. For unspecified uses, the number of parking spaces may be determined by the Development Review Board based on the circumstances. In addition:

- (1) Parking areas intended for commercial and/or public use which are adjacent to residential uses shall be set back at least 20 feet from the nearest property line.
- (2) All non-residential parking areas shall be located to the side or rear of buildings unless otherwise approved by the Development Review Board under Site Plan Review, and are to be screened or otherwise visually hidden as viewed from public highways and from adjoining residential areas.

- (3) All multi-family, municipal, commercial and industrial developments, in addition to the requirements in Table 3.1, must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal requirements, and at least one (1) bike rack for use by employees and/or the general public.
- (4) All off-street parking in excess of eight (8) parking spaces shall provide landscaped areas which at minimum are equal to at least ten percent (10%) of the total parking area, unless otherwise approved by the Development Review Board under Site Plan Review. Landscaped areas shall be regularly maintained, and must be integrated into the parking lot design.

**(D) Loading Areas and Service Areas.**

- (1) For every non-residential building hereafter erected, altered, extended, or changed in use there shall be provided paved or graveled off-street space for loading and unloading of vehicles as set forth below:
  - a. For lodging, health care facilities, commercial, business, service and industrial establishments a minimum of one (1) off street loading space for every ten thousand (10,000) square feet of floor area shall be required unless otherwise approved under Site Plan Review. For wholesale, warehouse, freight, and trucking uses, a minimum of on (1) off street
  - b. For wholesale, warehouse, freight, and trucking uses, a minimum of one (1) off street loading space for every seven thousand five hundred (7,500) square feet of floor area shall be required unless otherwise approved under Site Plan Review.
- (2) Service areas may also be required as appropriate, subject to Site Plan Review under Section 504, for emergency vehicles, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use.
- (3) All loading and service areas shall be clearly marked and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections or any internal road or access.

**(E) Waivers.** On-site parking, loading and/or service area requirements may be reduced or waived by the Development Review Board, subject to Site Plan Review under Section 504, based on the Board's determination under one or more of the following provisions, that, due to circumstances unique to the development, the strict application of these standards is unnecessary:

- (1) Green areas are set aside and maintained as open space for future conversion to parking, loading or service areas in the event that the space(s) initially permitted are deemed inadequate to meet demonstrated need; and/or
- (2) Shared use of parking, loading and/or service areas on the same or contiguous lots by two or more establishments is proposed; economics of scale exist and/or
- (3) Sufficient off-site public parking exists within reasonable walking distance of the use; and/or

- (4) The proposal is for the development of elderly and/or affordable housing units.

**Article IV. General Regulations**

<b>Table 3.1 Minimum Off Street Parking Requirements</b>	
<b>Use</b>	<b>Parking Spaces</b>
<b>Residential Uses:</b>	
One-and Two-family Dwellings	2 per dwelling unit
Accessory Dwelling	1 per dwelling unit
Multi-family Dwellings	1.5 per dwelling unit
Home Occupation/Home Based-Business	2 per dwelling unit, and 1 per nonresident
Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Residential Child Care	2 per dwelling unit, and 1 per nonresident employee
Residential Group Home	1 per resident employee, and 1 for every 2 bedrooms
<b>Public and Commercial Uses:</b>	
Public Assembly/Facilities	1 space per 3 patrons to capacity, and 1 per employee on the largest shift
School, Child Care	2 spaces per 10 children enrolled at the facility
Recreational Uses	1 per 3 patrons at capacity, and 1 per employee on the largest shift
Medical Clinics/Offices	6 per primary professional
Lodging (hotel, motel, lodge, inn)	1 per lodging unit, 1 per 3 employees on the largest shift, and 1 per 3 persons to the maximum capacity of each public meeting/banquet room
Care Facilities	1 per 4 beds, and 1 per employee on the largest shift
Professional, Government, Business Offices	1 per 200 square ft. of gross floor area
Personal Services	1 per employee, and one per customer service station
General Commercial/Retail Establishments	1 per 200 sq. ft. of gross floor area
Restaurants/Eating Establishments	1 per 3 seats or 100 sq. ft. of gross floor area, whichever is greater, and one per employee on the largest shift
Automobile Service Station	5 per service bay
<b>Other:</b>	
Industry	1 per employee on the largest shift, and 1 per company vehicle parked on the premises
Mixed/Multiple Use	Total required per each individual use

Storage, warehouses, other non-public uses	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
--	---

**Section 414. Performance Standards**

In accordance with the Act [Section 4414 (5)], in all districts the following performance standards, together with all applicable state standards, must be met. The administrative Officer shall determine whether a proposed or existing use meets the standards.

(A) No land or structure in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby properties.

(B) Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture.

(C) Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation.

(D) The following standards apply to all uses, with the exception of agriculture and forestry. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all assessors and assigns. No use, under normal conditions, shall cause, create or result in:

- (1) **noise** in excess of seventy (70) decibels at the property line, or represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area;
- (2) **noticeable, or clearly apparent vibration** which, when transmitted through the ground, is discernible at property lines without the aid of instruments;
- (3) **smoke dust, odors, noxious gases, or other forms of air pollution** which constitute a nuisance to other land owners, businesses, or residents; which endanger or adversely affect public health, safety, or welfare; which cause damage to property, business, or vegetation; or which are offensive or uncharacteristic of the area;
- (4) **releases of heat, cold, moisture, mist, fog, precipitation, or condensation** beyond the property lines of the property on which it is located, or to a height likely to be detrimental to the public safety, health, or welfare;
- (5) **any electromagnetic disturbances, or any electronic emissions** or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to the public health, safety and welfare, beyond the property lines of the property on which it is located;
- (6) **glare, lume, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicles operators, or which is detrimental to the public health, safety, or welfare;
- (7) **liquid or solid wastes or refuse** in excess of available capacities for proper disposal; which cannot be disposed of by available or existing methods without undue burden

to municipal facilities; which pollute ground and surface waters; or which are otherwise detrimental to the public health, safety, and welfare; or

- (8) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the applicant's or neighboring properties or the general public or which results in a significantly increased burden on municipal facilities and services.

#### **Section 415. Residential Group Home and Child Care Facilities, Consideration of**

(A) Pursuant to the Act [Section 4412(1) (G)], a state licensed or registered residential care home or group home, serving not more than eight (8) persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within one thousand (1,000) feet of another community care or group home (see also Section 307).

(B) A state registered or licensed child care facility serving six (6) or fewer children shall be considered by right to constitute a permitted single family residential use of property (see also Section 306).

#### **Section 416. Rivers, Streams, Shorelines and Wetlands**

(A) To prevent soil erosion, protect wildlife habitat and maintain water quality, an undisturbed, vegetated buffer strip shall be maintained for a minimum of fifty (50) feet from all streams and rivers, shorelines and wetlands. The buffer strip shall be measured from the ordinary high water mark or delineated wetland boundary. No development, excavation, landfill or grading shall occur within the buffer strip, and vegetation shall be left in an undisturbed state, with the exception of clearing and associated site development necessary to accommodate the following:

- (1) Road, driveway and utility crossings;
- (2) Stream bank stabilization and restoration projects, in accordance with all applicable State and Federal regulations;
- (3) Bicycle and pedestrian paths and trails; and
- (4) Public recreation facilities and improved river/lake accesses.

(B) The expansion or enlargement of any structure in existence prior to the effective date of this ordinance and not in compliance with Section 4 (A), above, is permitted with the approval of the Development Review Board in accordance with 412 (Conditional Use Review).

(C) For development subject to site plan or Conditional Use Review, minimum required setback and/or undisturbed buffer strip distances may be increased as appropriate based on site, slope or soil conditions and the nature of the proposed use.

#### **Section 417. Public Use Exceptions**

(A) In accordance with the Act [Section 4413], Public Facilities: 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 functional use:

- (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 by the State [10 V.S.A., Chapter 159].
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A., Section 6606a]

(B) Where reasonable provisions for any of the above listed public facilities have been made elsewhere in this Bylaw, including the siting of such facilities within designated zoning districts, all applicable provisions of this Bylaw, including district requirements, shall apply.

### **Section 418. Signs**

(A) **Applicability.** No sign shall be erected, enlarged, redesigned, repainted, reworded, substantially rebuilt, or altered in any way without a permit issued by the Administrative Officer, with the exception of those signs specifically exempted under subsection (B), below. Permits shall be issued only for signs in conformance with this Bylaw. Application shall be made on the designated form, specifying legend, size, shape, colors, location, materials, height, supporting structures, lighting, and other information as may be necessary to determine conformance with these regulations.

(B) **Exceptions.** The following signs do not require a permit when located on the immediate property and are within the size specifications set out below:

- (1) Road and associated signs erected, maintained and administered by the Town or the State of Vermont under Title 10 V.S.A., Chapter 21.
- (2) Unlit signs not exceeding one (1) square foot in area or smaller, including those bearing property numbers, post box numbers, or names of occupants of the premises.
- (3) Temporary real estate sign not exceeding six (6) square feet in total area.
- (4) Small signs without advertising displayed for the direction, instruction or convenience of the traveling public, including signs which identify restrooms, posted areas, of the like, with an area not exceeding two (2) square feet, provided such signs are located on the premises of the activity being served by the sign.
- (5) Temporary signs to be maintained for not more than four (4) weeks erected by fairs or expositions, or signs announcing a garage sale, yard sale or auction, or an event of a civic, political, or philanthropic service, or religious organization, not exceeding four (4) square feet in area. All signs are to be removed promptly by the owner following the event.
- (6) Wall or pole mounted flags, including not more than one (1) 3'x5' flag conveying a message not representative of a state or national identity, such as "open" or "sale".

(C) **Prohibited Signs.** The following signs shall not be permitted in any District:

- (1) Advertising billboards
- (2) Flashing, oscillating, or revolving signs.
- (3) Signs attached to a building or structure which extend more than twenty-five (25) feet

above the ground, as measured to the top of the sign, and/or extend above the eaves of that part and side of the building to which the sign is attached, except as identified in Subsection (D), below.

- (4) Freestanding signs in excess of sixteen (16) feet in height.
- (5) Signs which impair public safety.
- (6) Neon, similar types of illumination, and internally lighted signs.
- (7) Portable signs.
- (8) Signs advertising a business of use which has been discontinued or abandoned.

**(D) General Sign Standards.** All signs permitted within any District shall meet the following standards:

- (1) No outdoor advertising signs shall be permitted in any district except for the purposes of identifying an existing, on premise recreational, commercial, business, public, public or industrial use in those districts where such uses are permitted.
- (2) Signs should be located where they will be most easily read to reduce the size needed for legibility.
- (3) All lighted signs shall meet applicable Lighting (Section 410) and Performance Section (418) standards, and shall be turned off after business hours.
- (4) A constant, shielded light source may be used to illuminate permitted signs, provided that the lighting is directed only on the sign surface, preferably from above, and does not result in glare or otherwise adversely affect neighboring properties, rights-of-way, or vehicular traffic.
- (5) No sign shall contain string lighting, pennants, or similar attention gathering devices, nor may they contain or support any device capable of emitting noise.
- (6) Wall signs and projecting signs shall be securely fixed to the wall of a principal structure, and shall not obscure architectural features of the building.
- (7) Projecting signs shall not exceed twelve (12) square feet in total area or extend over a public right-of-way.
- (8) All permitted signs shall be maintained in a secure and safe condition. If the zoning administrator is of the opinion that sign is not secure, safe, or in a good state of repair, a written warning and/or notice of violation under Section 608 may be issued with a request that any defect in the sign is immediately corrected.
- (9) Nonconforming signs may remain in use until such time as they are damaged beyond 50 percent of their appraised value, and/or are reconstructed, remodeled, relocated, replaced or enlarged. Nothing in this bylaw shall prevent normal sign maintenance and repair, including the replacement of broken parts.

(E) **Specific Standards.** The following signs are permitted when located on-premise for uses as specified:

- (1) **Home Occupations:** One (1) professional or home occupation sign, not exceeding three (3) square feet in total area.
- (2) **Agricultural:** One (1) sign identifying agricultural uses, or products, including but not limited to dairy or vegetable farms, tree farms, orchards, and maple syrup operations, not to exceed twenty (20) square feet in total area.
- (3) **Other non-residential:** One (1) sign identifying a permitted non-residential use, not to exceed six (6) square feet in total area, except as identified for business within designated Commercial Districts under (4) below.
- (4) **Business, within Commercial Districts:** Two (2) separated business signs not exceeding twenty (20) square feet in area; not more than one of which shall be a free-standing sign and/or shall be located within twenty-five (25) feet of the traveled portion of the highway. Roof signs are permitted but may not exceed twelve (12) square feet in total area and may not be placed on roofs in such a manner that the highest point of the sign is higher than one-half way between the eaves and the ridgeline.
- (5) **Mixed Uses, including commercial shopping centers, and business, manufacturing or industrial parks:** Notwithstanding Subsection (D) (4), above, one (1) freestanding sign for the entire development, to be located near the principal entrance and not to exceed 24 square feet in total area unless otherwise permitted under Site Plan Review; and, in addition, each individual business is allowed one wall or projecting sign, not to exceed eight (8) square feet in area, announcing the business establishment.
- (6) **Service Stations:** in addition to the signs allowed for business under (4), either one (1) pricing sign which does not exceed twelve (12) square feet in area, or pump-top pricing signs, each not to exceed two (2) square feet in area.
- (7) **Temporary Sale or Construction:** for any commercial property being sold or developed, one (1) temporary real estate or construction sign, not to exceed sixteen (16) square feet in total area or ten (10) feet in height, providing such sign is promptly removed immediately following sale or completion of construction.

(E) **Measurement.** When computing the total number of signs or permissible sign area for any use, the following shall apply:

- (1) Existing signs, except for those specifically exempted under Subsection (A), shall be included in the calculation of the total number and area;
- (2) Freestanding and projecting signs printed back-to-back (having more than one visible side) shall be counted as one sign, and the total sign area shall be computed for one side only. Signs consisting of freestanding letters or numerals shall include any

intervening spaces (the entire message are), in the calculation of total sign area. And sign area measured shall be the area included within the extreme limits of the sign surface, excluding supporting structures.

(F) **Exceptions.** Proposed signs which may not otherwise meet the requirements of this section may be approved by the Administrative Officer pursuant to the Conditional Use objectives under Section 503 and a finding that the sign has distinctive artistic and/or cultural merit which will contribute significantly to the character of the area and the community.

#### **Section 419. Temporary Uses**

(A) A temporary permit may be issued by the Administrative Officer for non-conforming uses, excluding residential dwellings, which are incidental to a construction project, for a period not exceeding one (1) year, conditional upon written agreement by the owner to remove the structure and/or discontinue the use upon expiration of the permit.

(B) Any trailer used for storage or other accessory use for a period exceeding thirty (30) days shall be considered a structure subject to all the terms and conditions of this bylaw.

## **ARTICLE V. DEVELOPMENT REVIEW**

### **Section 500. Applicability of Development Review Standards**

(A) **Conditional Use Review** per Section 503 shall apply only to those uses designated as conditional uses in Article II or as otherwise specified under Article III. Uses designated as permitted uses are not subject to conditional use review standards and procedures. Conditional Use Review typically requires compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large. Standards and conditions emphasize those considerations in which off-site impacts of a proposed project can be identified, avoided and/or mitigated.

(B) **Site Plan Review** per section 504 shall apply to all uses excluding one and two family dwellings, home occupations within a single or two-family dwelling, residential accessory uses or structures (including home occupations, day care facilities and group homes with 8 or fewer clients/residents), signs, agriculture and/or forestry and other uses specifically exempted from site plan review under these Bylaws. Site Plan Review typically requires that a project be of high quality, attractive and functional site design, and that overall building and site design be consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.

(C) **Planned Unit Development (PUD) Review** per Section 505 may be applied at the request of the applicant, to any size parcel to be subdivided, but is strongly recommended for any subdivision creating more than nine building lots. Density bonuses up to 50 percent may be granted to innovative Planned Developments in accordance with Section 505.

### **Section 501. Coordination of Conditional Use & Site Plan Review**

(A) Where an application requires both Site Plan Review and Conditional Use Review, the Planning Commission shall consider the application for Site Plan Review pursuant to Section 504, act to approve or disapprove it, and provide its written findings and conditions to the Board of Adjustment for consideration under Section 503.

### **Section 502. Site Development Plan**

(A) An applicant for conditional use and/or site plan approval shall submit one (1) original and two (2) complete copies of a site development plan, to include the following information and any applicable fees to the Administrative Officer under the provisions of Section 503 and 504:

- (1) The name and address of owner(s) of record of the property; name, address and interest of the applicant, if different than the owners(s) of record; name and address of the person or firm preparing the application and related plans; date of the application and related plans; names and addresses of all owners of adjoining lands.

- (2) A plan drawn to scale (preferably prepared by a licensed engineer, surveyor, land planner for large projects) or otherwise approved by the Development Review Board showing the following:
  - a. north arrow and scale;
  - b. legal property boundaries for the property;
  - c. proposed property boundaries, including internal lot lines;
  - d. existing and proposed features, to include topography, land use existing vegetation, natural and critical habitat areas, floodplains and wetlands; farmland/conservation areas and zoning district boundaries; structures (building footprints), walls, fence lines and historic sites; parking areas, roads, driveways, easements and rights-of-way, and utilities;
  - e. traffic and pedestrian circulation within the site; location of loading areas; access to neighboring properties; and public roads, sidewalks, pathways and trails in the vicinity; and
  - f. proposed landscaping, screening, grading, drainage, sign and lighting details.
- (3) Site location map or other notation showing the location of the project in relation to nearby town highways, and adjoining parcels and uses.]
- (4) Preliminary building sketches for new or altered structures, including an indication of the exterior design, window treatment and roof and siding materials.

(B) In addition, the Development Review Board, upon preliminary review of the application, need additional information to determine whether the proposed use of structure meets the applicable standards. Such information may include the following:

- (1) Photographs of the site.
- (2) Water supply and wastewater disposal plans.
- (3) Phasing schedule for completion of all proposed development and site improvements.
- (4) An indication of traffic to be generated by the project and the impact of such traffic on area roads.
- (5) The location of natural features or site elements to be preserved as open space or to be held in common and the method for protecting those features or elements.
- (6) Additional studies or data relative to the project's impact on the community, such as storm water management and erosion control plans, visual impact analysis or community service impact assessments.

(C) The application shall not be considered complete until all of the application materials listed in subsection (A), above, and any materials specifically requested in subsection (B), above, have been submitted. The Development Review Board may waive one or more of the items listed above in the event they determine the item(s) to be unnecessary for the comprehensive review of the application. Such waiver shall be made at the time that the application is accepted and deemed complete.

### **Section 503. Conditional Use Review**

**General.** Conditional Use Review is generally required where development may be expected to have a significant impact on neighboring properties. Conditions may be necessary to protect existing properties.

(A) **Application.** An application for conditional use review, including a site development plan prepared in accordance with Section 502 above, and associated fee, shall be submitted to the Administrative Officer for consideration at the next available regularly scheduled meeting of the Board.

(B) **Review Procedure.** The Board shall schedule a public hearing, warned in accordance with Section 609, to consider the application submitted, determine whether said application is complete or whether additional materials are required to complete the application, and subsequently to determine whether the proposed use or structure conforms to the conditional use standards set forth below. An applicant may request a pre-application meeting to review the project in concept and to discuss the information needed to constitute a complete application. The Board shall act to approve, approve with conditions, or disapprove any application for conditional use review within sixty (45) days after the date of the final public hearing held under this section, and shall issue a written decision, to include findings, any conditions, and provisions for appeal. Failure to act within sixty (45) days shall be deemed approval. In approving a project with conditions, the Board may require specific modifications to the scale, layout and/or design of the project, or place restrictions on its operation and/or intensity to ensure compliance with this section.

(C) **Certificate of Compliance.** The Board may, as a condition of conditional use approval, require that a certificate of compliance be obtained in accordance with Section 602 of the Bylaw.

(D) **General Standards.** Conditional use approval shall be granted by the Board upon their determination that the proposed use or structure will not adversely affect the following standards:

- (1) **The capacity of existing or planned community facilities or services.** The Board shall consider the demand for community services and facilities which will result from the proposed development, and determine whether that demand will exceed the capacity of existing facilities or services. In making such a determination, the Board will consider any capital program or budget in effect at the time of application. Conditions may be imposed regarding the timing and phasing of development to minimize the impact on schools and other community facilities and services.
- (2) **The character of the neighborhood, area, or district affected.** The Board shall consider the location, scale and intensity of the proposed development relative to the use and character of adjoining properties and other properties likely to be affected by the proposed use; and shall consider the proposed development's compatibility with the purpose and character of the affected district as defined by this Zoning Bylaw, the Town Plan, and the testimony of affected property owners other interested persons and Town residents.
- (3) **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity,

safety, efficiency and use of affected public roads, bridges, and intersections.

Generally, the Board will depend on accepted transportation standards in evaluation traffic impacts.

- (4) **Bylaws now in effect.** A conditional use must comply with all bylaws and regulations in effect at the time of submission of the application.
- (5) **The utilization of renewable energy resources.** The Development Review Board will consider whether the proposed development will not interfere with the sustainable use of renewable energy resources either through use of those resources or on the proposed project's impact on the future availability of such resources.

(E) **Specific Standards.** In addition to the General Standards set forth in subsection (D) above, the Development Review Board may require conditions or modifications to the project to ensure the following:

- (1) The proposed development conforms to applicable district standards, if any, established for individual zoning districts, including site location, natural resource protection and buffer requirements and other standards set forth in Section 204 relative to the **Shoreland (S), Flood Hazard Overlay (FHO) and Resource Conservation Overlay (RCO) Districts.**
- (2) The proposed development conforms to all Specific Standards set forth in Article III and all General Standards set forth in Article IV of this bylaw.
- (3) The proposed development shall not result in any direct or indirect discharge of waste, contaminants, storm water, or in-ground disposal of wastewater in a manner that would adversely impact existing or planned, public or private, water supplies or facilities (including roads, erosion, etc.).
- (4) The storage or display of outside materials, goods, supplies, vehicles, machinery or other materials shall be prohibited unless specifically approved by the Board. Secured, covered areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving such outdoor display or storage, the Board may place conditions on the area and location of such storage or display, and may require appropriate screening.
- (5) Exterior lighting shall be limited to cut-off fixtures. Such fixtures shall be directed so as not to cause glare on adjacent roadways, cause excessive levels of illumination, or result in direct illumination of neighboring properties. The Board may restrict the maximum level of illumination on all or a portion of the property.
- (6) The development shall not result in any undue adverse impact to any scenic area, historic resources or natural resources identified in the Town Plan or through site investigation. The Board may limit the location, scale, layout and design of the proposed development to ensure the protection of scenic areas, historic resources and/or natural resources.

## 504. Site Plan Review

**General.** Site Plan Review is generally required for commercial and development type applications excluding day care, group homes, agricultural activities and one and two family homes. (See Act, Section 4416).

(A) **Application.** An application for Site Plan Review, including a site development plan prepared in accordance with Section 502 above, shall be submitted to the Administrative Officer for consideration at the next available regularly scheduled meeting of the Development Review Board.

(B) **Review Procedure.** The Development Review Board shall schedule a public hearing, warned in accordance with Section 609, to consider applications submitted. Applications for Site Plan Review shall be deemed received upon the Development Review Board's determination that the application is completed at the duly warned meeting. In the event that the Commission requires additional information not submitted with the initial application, the application will not be deemed complete until such time as all supplementary submittals have been accepted.

On complex developments, applicants are encouraged to request a pre-application meeting to review the project in concept and discuss the information needed for a complete application. The Development Review Board must act to approve or disapprove any application within 45 days of the date on which a completed application is received and issue a written decision, including findings and conditions. Failure to act within 45 days of receipt of the completed application shall be deemed approval.

(C) **Certificate of Compliance.** The Board may, as a condition of site plan approval, require that a certificate of compliance be obtained in accordance with Section 602 of the Bylaw.

(D) **General Standards.** The Board may consider and specify appropriate safeguards, modifications and conditions relative to the following standards:

- (1) **Safety and efficiency of traffic access.** Vehicular access and intersections with roads shall meet all applicable Town and State design standards. The Board may limit the number and size of curb cuts to a single access and may require the reduction, consolidation or elimination of non-complying curb cuts. In appropriate instances, the Commission may require provision for shared access between adjoining properties.
- (2) **Adequacy of circulation, access, parking and loading facilities.** Parking shall be provided per the requirements of Section 413 of these regulations, and in accordance with the following:
  - a. Parking should be adequate and designed to minimized visibility from off site through location and landscaping and generally to the rear or interior of the site. Large, uninterrupted expanses of parking should be avoided and parking for the disabled provided.
  - b. Driveway connections to parking areas on adjacent properties, or provision for

future connection maybe required where feasible. In the event of shared parking, or economies of scale, parking requirements may be reduced. (See Section 413).

- c. Loading and delivery areas should be adequate to meet the anticipated needs in a manner that does not interfere with parking circulation and landscaping.
  - d. Bicycle and Pedestrian Access. Pedestrian circulation within the site, and access to adjacent properties and along public roads should be provided. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon site conditions. Adequate access should be provided for people with disabilities.
- (3) **Landscaping and Screening.** Landscaping should enhance the features and conditions unique to each site, and include a combination of shade trees (deciduous and/or coniferous), shrubs and well kept grasses and ground covers. Landscaping may be required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, and as otherwise necessary to provided adequate screening. A plan for all proposed landscaping shall be prepared. Bonding or surety may be required to ensure installation and maintenance. Landscaping plans should consider the following:
- a. The preservation of existing ground cover and trees, especially those that are mature or determined to be of special horticultural or landscape value where feasible.
  - b. The use of both deciduous and coniferous shade trees in available yard area, especially front and side yards and parking areas. Shade trees should be placed to interrupt the facades of buildings, expanses of parking, visually reduce the scale and bulk of large buildings, integrate the site with surrounding landscape and to enhance environmental quality (e.g., wildlife habitat, soil stabilization, storm water retentions, air quality, energy conservation). Shade trees are especially important in instances where street trees are not practical because of site constraints. Shade trees recommendations follow:
    - be minimum of 2.5” trunk diameter at five (5) feet for deciduous trees and eight (8) feet high for conifers or as appropriate to the site.
    - be a species with a substantial life expectancy, have a tolerance for soil compaction and drought and be of native origin.
  - c. The use of street trees should be considered and may be planted at thirty (30) foot +/- intervals to create a canopy effect and should be salt tolerant.
  - d. Use flowering ornamental trees to complement shade trees in instances where appropriate. Landscaping beds may enhance the general appearance of the site and use of earthen berms should generally be avoided.
- (4) **Historic Resources.** Consideration should be given to the impact of the proposed development on historic structures on site or adjacent. To the extent feasible, continued use of existing historic structures should be encouraged and the appearance of historic structures protected.
- (5) **Natural Resources.** Consideration should be given to the recognition and incorporation of important natural features in site design and layout. The Board may

review the proposed development so it will have minimal adverse impact on important natural features located on the parcel. (Buffering and/or protection through conservation easements or other deed restrictions may be considered).

- (6) **Character of the Neighborhood.** The Board may consider if the scale and appearance of the proposed development does not adversely effect the character of the neighborhood.

(E). **District and Use Recommendations.** To sustain the Town's goals of maintaining its rural character and heritage of compact village and business centers surrounded by large areas of undeveloped forest and agricultural lands (**Town Plan III (1)**), development in the several districts should complement each other, foster the Town's goals and may be considered in site plan review.

- (1) **Village and Recreational Districts.** Within these Districts, site plans should reinforce a traditional, compact village development pattern characterized by pedestrian scale, functional and visual integration of neighboring properties and a mix of uses. To help achieve these objectives, the following suggestions may be considered:

- a. Buildings should be oriented to define a streetscape through a consistent building line and setbacks. Buildings may be clustered around a common focal point, such as a green or public courtyard, while maintaining an appropriate visual and functional relationship with public roads.
- b. Consideration should be given to the layout and design of development located at village edges, including entrances or gateways along public roads. Structures should be clustered and integrated within the traditional village pattern, present a well-defined edge between the built environment and surrounding open space, and visually enhance village entrances.

- (2) **Rural Residential Districts.** Within rural districts site plans should be designed to maintain the rural character of the Town's working landscape to avoid undue adverse impacts on farmland, forestry, scenic and environmental areas. To help achieve these objectives, the following suggestions may be considered.

- a. The siting of structures, driveways and parking areas should be compatible with existing site features and topography. Structures should be clustered and/or sited to preserve the rural and scenic character of the site and avoid the development or fragmentation of open meadows and productive farm and forest land.
- b. Building design should be compatible with the rural landscape through scale and orientation of the buildings and design elements characteristic of Vermont's historic, rural landscape.

- (3) **Shoreland District.** Within the Shoreland District, site plans shall be designed to protect water quality and shoreland vegetation, minimize adverse impacts to the lakeshore environment, limit encroachments into public waters, and preserve and enhance visual and physical access to and from the lake.

- (4) **Service Commercial District.** Within the Service Commercial District, site plans should be designed to minimize the visual impact of large scale buildings and outdoor

storage and/or display of goods or materials. A diversity of materials should be used to create an interesting, naturalized, year round screening rather than a large expanse of uninterrupted, uniform material.

- (5) **Resource Conservation Overlay District.** Site plans should be coordinated with the conservation objectives (Section 204).

### **Section 505. Planned Unit Developments (Cluster Zoning)**

(A) **General.** Planned Unit Developments (PUDs) are encouraged to promote flexible and creative site design and preserve open space. A PUD may contain both residential and business uses. Often called “Cluster Zoning” such Planned Developments (PDs) are intended to preserve open areas, natural and historic resources, and, make efficient use of land, roads, utilities, construction techniques and energy.

Since PDs promote the objectives of the Town Plan and must be consistent with it, the Development Review Board may modify zoning requirements and provide density bonuses of up to 50% for well designed PUDs. As example, a creative ten acre development in a one acre zone might be able to contain up to fifteen dwellings and/or businesses. It is suggested that PUDs involve a minimum of five lots.

#### **(B) Review Procedures**

- (1) **Pre-Application Meeting.** A pre-application meeting(s) shall be held with the applicant, Development Review Board and town officials to discuss the nature and scope of the proposed PUD. Prior to the meeting, applicant shall provide a brief description and sketches of the PUD including basic site data, proposed uses, density and treatment of open spaces and other resources. Within thirty days after the last meeting, the Development Review Board shall provide applicant written comments and recommendations on the proposal to guide applicant in preparing the PUD application.
- (2) **Application.** Applicant shall file a formal application with the Development Review Board and include data required for site plan approval (Section 502). Also, applicant shall include a description of the PUD and rationale for it, response to the Development Review Board prior comments, describe PUD buildings, open spaces and resource protection plans, and supporting information the Development Review Board may deem necessary to determine if the PUD meets Town standards.
- (3) **Public Hearing and Development Review Board Action.** Within 30 day of receipt of a completed OD application, the Development Review Board shall hold a public hearing(s) per Section 609. Within forty five days after the final public hearing the Development Review Board shall provide a written ruling on the PUD application including conditions, modifications, and/or reasons for approval or disapproval. Copies of the decision shall be sent to the applicant and interested parties appearing at the hearing(s).

(C) **General Development Standards.** PUDs, including any modifications of the zoning bylaw to be approved by the Development Review Board, shall be subject to the following general conditions and standards:

- (1) The PUD will meet Subdivision and Site Plan Review standards under Section 314

and Section 504, respectively and be consistent with the Londonderry Town Plan.

- (2) The PUD shall be a unified treatment of the possibilities of the site, making provision for the preservation of surface and ground waters, stream banks, lake shore, slopes with the gradient in excess of 25 percent, wetlands, soils unsuitable for development due to shallow depth to bedrock or high water table, limitations for on-site sewage disposal, agricultural lands, historic or archaeological sites, natural area, wildlife habitat, ridge lines and hill tops, flood plains, and scenic views and vistas. Predominant uses of the site may include those permitted and/or conditional uses allowed within the district where the project is proposed.
- (3) For any PUD, the total number of units shall not exceed 150 percent of the number which could be permitted, in the development review board's judgment, if the land were subdivided into lots in conformance with applicable zoning district standards. Where a district boundary line divides a parcel, the Development Review Board may allow the development of a single PUD with a total density based on the allowable density of each district.

Contiguous parcels under the ownership or control of the applicant may be combined for review as a PUD. The permitted density on one parcel may be increases as long as the overall density for the combined parcels does not exceed that which could be permitted, if the land were subdivided into lots in conformance with district regulations.

- (4) The minimum front, side and rear yard setbacks at the periphery of the PUD shall be as required for the district unless specified by the development review board. The Board may consider other setback standards, such as zero lot lines, as part of its review. The Board may impose restrictions on the height and spacing of buildings; greater setback and screening requirements for structures and parking areas and other development along the perimeter of the project, and between development areas and common, open space areas.
- (5) Provision for preserved open space shall be made and dedicated, either in fee or through a conservation easement approved by the Board, to the Town, a community association comprising all of the present and future owners of lots in the subdivision, or a non-profit land conservation organization. Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. The location, size and shape of lands set aside to be preserved for open space shall be approved by the Board, in accordance with the following:
  - a. Open space land shall provide for the protection of identified resources, including farmlands, productive forest, wildlife habitat, natural areas, aquifer protection areas, surface waters, stream banks, lake shore, historic and archaeological sites, and scenic views and vistas. Generally open space shall be at least 50 percent of the total area.
  - b. Open space shall be suitable improved and/or maintained for its intended use, except for open space containing natural or cultural resources worthy of preservation which may be required to be left unimproved. Provisions shall be made to enable lands designated for agriculture and silvaculture to be used for

these purposes. Management plans for forests, wildlife habitat, and shorelands may be required by the Commission as appropriate. Open space land should be located to conform with and extend existing and potential open space.

- c. Sewage disposal area and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can show that they will not detract from the values for which the open space is to be protected.

**(D) Standards Specific to Planned Unit Developments.** In addition to the general standards, PUDs shall also meet the following specific standards:

- (1) A residential PUD shall include only residential uses
- (2) The dwelling units permitted may, at the discretion of the Board, be of varied types, including single-family, duplex, or multi-family construction, and may be attached or detached. The maximum number of units in a multiple family dwelling should not exceed six.
- (3) A PUD combining mixed uses may include any permitted or conditional uses allowed in the District
- (4) Principal buildings and mixed uses shall be arranged to be compatible, and buffered as appropriate to ensure visual and acoustical privacy for residents of the development and for adjacent properties.

## ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

### Section 600. Appointments, Duties and Responsibilities

(A) **Administrative Officer.** In accordance with the Act [Section 4448] The Select Board, shall appoint an Administrative Officer for a term or three (3) years to administer and enforce the provision of this Bylaw. An Administrative Officer may be removed for cause at any time by the Select Board, in consultation with the Planning Commission. In the absence of the Administrative Officer, an Acting Administrative Officer who shall have the same duties and responsibilities as the Administrative Officer may be appointed by the Planning Commission with the approval of the Select Board. The Administrative Officer shall have the following duties and responsibilities:

- (1) The Administrative Officer shall administer the provisions of this Bylaw literally {Section 4448 (a)}, shall not have the power to permit land development which is not in conformance with the Bylaw, and shall inspect developments, maintain records, and perform all other necessary functions to carry out the provisions contained herein.
- (2) The Administrative Officer will also provide interested persons with the forms required for municipal permits or other municipal authorizations; coordinated an united effort on behalf of the municipality in administering its development review programs; and inform persons applying for municipal permits or authorizations that information regarding applicable state permits may be obtained through the regional permit specialist employed by the Vermont Agency of Natural Resources.

(B) **Development Review Board.** There is hereby established a Development Review Board, hereinafter referred to as “the Board,” appointed by the Select Board in accordance with the Act [Section 4460, 4461]. Any member of the Board may be removed for cause by the Select Board upon notification of written charges and after public hearing. Alternates may be appointed or assigned by the Select Board to serve on the Board in situations where one or more members are disqualified or otherwise unable to serve. The powers and duties of the Development Review Board shall be provided by the Act and set forth herein.

(C) **Planning Commission.** The Planning Commission, hereinafter referred to as “the Commission,” unless elected shall be appointed by the Select Board in accordance with the Act [Sections 4321-4323], and may be removed by the Select Board for cause upon notification of written charges and after public hearing. Alternates may be appointed or assigned by the Select Board to serve on the Commission specifically for development review purposes in situations where one or more members are disqualified or otherwise unable to serve. The powers and duties of the Board of Adjustment shall be provided by the Act and set forth herein.

(D) **Right to Assistance.** All governing bodies of the Town have the right to obtain and/or require professional assistance on any matter contained in this Bylaw wherever it is deemed necessary for proper administration and enforcement.

## **Section 601. Zoning Permits and Procedures**

**(A) Permit Requirements.** No “land development,” as such term is defined herein may be commenced, nor shall any land or structure be used differently or in any way extended in the Town until a zoning permit has been issued therefore by the Administrative Officer. The Administrative Officer shall issue a zoning permit only if all of the following requirements are met:

- (1) The Zoning Permit Application Form as established by the Appropriate Municipal Panel, and all other necessary municipal application forms have been properly completed and submitted;
- (2) The Zoning Permit Fee, as established by the Select Board in accordance with the Act [Section 4440 (b)], has been paid;
- (3) All applicable local reviews and approvals have been obtained, including but not necessarily limited to Conditional Use approval (Section 503). Access approval (Section 402), Site Plan Review approval (Section 504), and the granting of a variance (Section 606), where required under the provisions of this Bylaw.
- (4) The stipulations of any applicable State agencies have been satisfied in accordance with Section 604 of this Bylaw; and
- (5) Written consent of the Select Board has been received, following a warned public hearing, for zoning permits to be issued during bylaw amendment proceedings in accordance with the Act [Section 4449].

**(B) Action on Application.** The Administrative Officer shall approve or disapprove in writing an application for a zoning permit, or shall forward or refer such application to the Appropriate Municipal Panel, or appropriate state agency for review as a required, within thirty (30) days, a permit shall be deemed issued on the 31<sup>st</sup> day. No zoning permit shall be issued except in conformance with the provisions of this Bylaw and the submission of all required approvals. All zoning permits issued shall contain a statement of the period of time within which an appeal may be taken. Permits issued for land development in the flood hazard area shall contain a notation that such land development is located in a regulated flood hazard area. Within three (3) days following the issuance of a zoning permit, the Administrative Officer shall:

- (1) Deliver a copy of the permit to the listers of the municipality; and
- (2) Post a copy of the permit in at least one public place within Town until the expiration of fifteen (15) days from the date of the issuance of the permit.

**(C) Effective Date.** No zoning permit issued by the Administrative Officer shall take effect until fifteen (15) days have passed, or if an appeal is properly filed (under Sections 605 or 607) until the final adjudication of the appeal.

**(D) Permit Expiration.** A zoning permit is in force for two (2) years from the date of its issuance, except for a permit for Planned Unit Development issued pursuant to Section 505, which is in force for five (5) years. If the permitted activities have not been substantially completed within this period, re-application must be made for a new zoning permit, unless an extension is granted by the Administrative Officer for one-and two- family dwellings, or by the

Development Review Board for all other uses. The expiration of a zoning permit under this provision shall include the expiration of any other associated approvals, including but not limited to conditional use, variance and site plan approvals.

### **Section 602. Certificate of Compliance**

In the event that the Development Review Board requires the completion of the a certificate of compliance as a condition of approval issued pursuant to Section 503 or 504, respectively, it shall be unlawful to use or to occupy or permit the use or occupancy of said land or structure, or part thereof, until a Certificate of Compliance is issued by the Administrative Officer stating that the proposed use of the structure or land conforms to the conditions and/or requirements of any zoning permit issued in accordance with these regulations.

- (1) An application for a Certificate of Compliance shall be provided with a zoning permit issued by the Administrative Officer. The applicant shall submit the completed application upon completion of permitted improvements, but prior to the occupancy of the land or structure.
- (2) Within five (5) days of receipt of the application for a Certificate of Compliance, the Administrative Officer will inspect the premises to ensure that all work was completed in conformance with the permit, including all applicable conditions of the Development Review Board. If the Administrative Officer fails to either deny or grant the Certificate of Compliance within five (5) working days of the submission of an application, the Certificate of Compliance shall be deemed to be issued.

### **Section 603. Exemptions**

No zoning permit shall be required for the following:

(A) Any building for which a zoning permit has been issued and construction has begun prior to the adoption of these regulation, provided such construction is completed within one year from the date of such adoption.

(B) Modifications of building interiors if no charge of use is proposed; repairs and minor alterations (including chimneys, re-roofing or re-siding) to existing structures not resulting in any change to the exterior dimensions (building footprint) or height of the structure, or any change to the exterior appearance to any structure permitted under Section 503 Conditional Use or Section 504 Site Plan Review.

(C) Accepted agricultural practices (AAPs) and best management practices (BMPs), including farm structures, as defined by the Commissioner of Agriculture, Food and Markets in accordance with the Act; however, pursuant to Accepted Agricultural Practice Rules as most recently amended:

- (1) Prior to the construction of farm structures, the farmer must notify the zoning administrator in writing of the proposed construction activity. The notification must contain a sketch of the proposed structure including the setbacks from adjoining property lines and road rights-of-way.
- (2) Local setbacks established by the municipality shall be maintained unless, upon written petition by the farmer, the Commissioner has approved other reasonable setbacks for the specific farm structure being constructed or maintained. Such approval shall be attached to the notification filed with the zoning administrator.

- (3) New farm structures that are not additions to existing farm structures associated with farm operations shall be constructed so that a minimum distance of fifty (50) feet is maintained between the top of the bank of adjoining waters and the farm structure. Such structures do not include those for irrigation, drainage or fencing.
- (4) All farm structures within the Flood Hazard Area Overlay shall be constructed and maintained in accordance with the requirements of the National Flood Insurance Program [Section 204].
- (5) Violations of Accepted Agricultural Practice Rules may be reported by the municipality to the Commission of Agriculture, Food and Markets for enforcement.

(D) Accepted management practices (AMPs) for silviculture as defined by the Commissioner of Forests, Parks and Recreation, pursuant to the Act.

(E) Any residential fence or wall less than 6 feet in height which does not extend into or obstruct public rights-of-way, or interfere with corner visibility or site distances for vehicular traffic.

(F) Residential entry stairs or handicap ramps.

(G) Any accessory structure such as dog house, child's play house, tree house, shed or similar structure with a floor area of one hundred-fifty (150) square feet or less, and a height of not more than 10 feet, which is located in a side or rear yard at least five (5) feet from all property lines.

(H) Signs as exempted under Section 421(A), including any sign erected by the State of Vermont or the Town of Londonderry for directional, informational, or traffic control purposes.

(I) Garage sales, yard sales, auctions or similar types of sale for a period of not exceeding three consecutive days, nor more than eight days per calendar year, which are managed so as not to cause unsafe traffic conditions, parking problems, or other nuisances to neighbors.

#### **Section 604. Required Notification to State Agencies**

No zoning permit for the development of land of the following types or located within the following designated areas may be granted by any municipality prior to the expiration of a period of thirty (30) days following the submission of a report to the state agency designated in each case, describing the proposed use, the location requested and an evaluation of the effect of such proposed use on the plan of the municipality and on the regional plan, pursuant to the Act [Section 4409(c)]:

- (1) **Forests, Parks and Recreation Department.** Any use in or within one thousand (1000) feet of any state owned or leased property under the jurisdiction of the department of forests, parks and recreation, but not including any state owned railroad corridor leased to the department for interim trail use.
- (2) **Department of Environmental Conservation.** Any of the following uses or activities affecting ground or surface water resources:
  - a. Any area designated as a flood plain or wetland.
  - b. The damming of streams so as to form an impounding area or five (5) acres or more for reservoir or recreational purposes.
  - c. The drilling of wells deeper than fifty (50) feet or with a potential yield greater

than twenty-five thousand (25,000) gallons per day, except this shall not apply to a well drilled by the owner of a farm or residence for his own use, or the use of the farm.

- (3) **Fish and Wildlife Department.** Game lands and stream bank areas owned or leased by the state.
- (4) **Vermont Agency of Transportation.** Airports.
- (5) **Forests, Parks and Recreation Department.** The following recreational areas:
  - a. Ski area with lifts or other equipment other than tow, with total capacity of more than five hundred (500) persons per hour.
  - b. Camps with accommodations for more than fifty (50) persons.
  - c. Marinas with accommodations for 20 or more boats with lengths in excess of twenty (20) feet.
  - d. Public beaches or lands within one thousand (1000) feet thereof.
  - e. Natural areas as defined in Section 2010 of Title 10.
- (6) Agency of Transportation. Any use within five hundred (500) feet of the intersection of any entrance or exit ramp providing access to any limited access highway.

### **Section 605. Appeals to the Development Review Board**

(A) **Filing Requirements.** An interested person may appeal any act or decision of the Administrative Officer, which may include a request for a variance from one or more provisions of this Bylaw under Section 606 below, by filing a notice of appeal with the Secretary of the Development Review Board, or the Town Clerk if no such Secretary has been elected, within fifteen (15) days of the date of such act or decision.

(B) **Interested Person.** In accordance with the Act [Section 4465], the definition of an interested person shall include the following:

- (1) The applicant;
- (2) The Town of Londonderry or an 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 bylaws, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the Plan or Bylaw of the Town;
- (4) Any ten (10) persons owning real property within the Town 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 plan or bylaw of the Town;
- (5) Any department or administrative subdivision of the State owning property or any interest therein within the Town or adjoining municipality, and the Vermont Agency

of Commerce and Community Development; and

- (6) The Londonderry Conservation Commission.

(C) **Notice of Appeal.** Pursuant to the Act [Sections 4464-4470] a notice of appeal shall be in writing and shall include the name address of the appellant; a brief description of the property with respect to which the appeal is taken; a reference to the regulatory provisions applicable to the appeal; the relief requested by the appellant; the alleged grounds why such relief is believed proper under the circumstances, and; any request for a stay of enforcement pursuant to the Act [Section 4466], including a statement under oath by the appellant that irremediable damage will directly result if such stay is not granted.

(D) **Stay of Enforcement.** If the notice of appeal includes a request for a stay of enforcement of the regulatory provisions referred to in the notice of appeal, the Development Review Board, within fifteen (15) days of the filing of the notice of appeal, may grant such a stay in writing with conditions, pursuant to the Act [Section 4464-4470]. Any stay of enforcement shall expire upon the expiration of the time to appeal to court.

(E) **Public Hearing.** Pursuant to the Act [Section 4464-4470], the Development Review Board shall set a date and place for a public hearing on the appeal, noticed in accordance with Section 608, to be held within sixty (60) days of the filing of the notice of appeal. For an appeal for the variance within a flood hazard area, the Board shall give notice of the date and place of the hearing to the Vermont Agency of Natural Resources.

(F) **Decisions.** The Board shall render its decision, to include findings of fact and any conditions, within forty-five (45) days after completing the hearing. A copy of that decision shall be sent certified mail, to the appellant within forty-five (45) days of the hearing. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing and a copy thereof shall be filed with the Administrative Officer and the Town Clerk as a part of the public records thereof in accordance with Section 610. If the Board does not render its decision within forty-five (45) days, the Board shall be deemed to have rendered a decision in favor of the appellant and granted the relief requested by him/her on the last day of such period.

(G) **Rejection of Appeal.** The Development Review Board may reject an appeal without a hearing and render a decision, which shall include findings of fact, within ten (10) days of the date of the filing of a notice of appeal if the Board considers the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant. Such decision shall be rendered, on notice given as in the case under paragraph (F) of this subsection, and shall constitute a decision for the purpose of appeal to the Court.

### **Section 606. Variances**

(A) The Development Review Board shall hear and decide upon requests for variances pursuant to the Act [Sections 4464-4470] and the appeal requirements under of Section 605 above. On an appeal for a variance from the provisions of this Bylaw involving a structure that is not primarily a renewable energy resource structure, the Board shall grant such variance, and render a decision in favor of the appellant, if *all* of the following facts are found and the findings are specified in its decision:

- (1) 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 regulation in the neighborhood or district in which the property is located.
- (2) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
  - (3) that the unnecessary hardship has not been created by the appellant;
  - (4) that 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 appropriated use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
  - (5) that the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

(B) On an appeal for a variance from the provisions of this Bylaw that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that all of the facts listed in Section 4469 (b) of the Act are found in the affirmative and specified in its decision.

(C) In granting a variance, the Development Review Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of this Bylaw and the Town Plan currently in effect. In no case shall the Development Review Board grant a variance for a use which is not permitted or conditionally permitted within the applicable district, and shall not grant a variance which results in an increase of allowable density.

### **Section 607. Appeals to Vermont Environmental Court**

In accordance with the Act [Sections 4471], an interested party may appeal a decision of the Development Review Board, within thirty (30) days of such decision to the Vermont Environmental Court. Notice of the appeal shall be sent to every interested person appearing and having been heard at the hearing before the Board and, if any one or more of these persons are not party to the appeal, upon motion they shall be granted leave by the Court to intervene.

### **Section 608. Enforcement**

(A) **Violations.** The commencement or continuation of any land development or land use which is not in conformance with any provision of this bylaw shall constitute a violation. All such violations shall be prosecuted in accordance with the Act (4451 and 4452).

(B) **Notice of Violation.** No action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. An action may be brought without the seven day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven day notice period and within the

next succeeding twelve (12) months. The seven day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days.

**(C) Penalties.** Any person who violated any provision of this bylaw shall be fined not more than 100 dollars for each offense, unless a higher fine is permitted under amendments to the Act (see section 4451 (a) ), In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

**(D) Remedies.** If any structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of any bylaw adopted under this chapter the Administrative Officer shall institute proceeding to prevent, restrain, correct or abate such construction of use, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

**(E) Limitations on Enforcement.** In accordance with the Act (Section 4496), as amended:

- (1) An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted pursuant to the Act (Section 1974a, 4451, and 4452), as amended, against the alleged offender if the action, injunction, or other enforcement proceeding is instituted within fifteen years from the date the alleged violation first occurred and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
- (2) No action, injunction or other enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the Town after July 1, 1998, unless the municipal land use permit or notice of the permit generally in the form provided for in the Act (Section 1154 (c)) was recorded in the land records of the Town in accord with the Act (Section 4454 (b)).
- (3) Nothing in this section shall prevent any action, injunction or other enforcement proceeding by the Town under any other authority it may have, including, but not limited to, a Town's authority under Title 18 of the Vermont Statutes Annotated, relating to the authority to abate or remove public health risks or hazards.
- (4) As used in this Section, "person" shall be defined in accordance with the statutory definition under the Act (Section 4454 (d)(1)), as included under Article VII.

## **Section 609. Public Notice Requirements**

**(A) Notice of Hearing.** Pursuant to the Act [Section 4464], any public notice required for public hearing under this Bylaw shall be given by the publication of the date, place and purpose of such a hearing in a newspaper of general circulation in the Town and the posting of such notice in three public places within the Town not less than fifteen (15) days prior to the date of public hearing. Notice of the hearing shall be sent by mail to the applicant. Notices should also be sent to abutting property owners at their last known address and to other known interested parties. The applicant shall be responsible for furnishing the names and addresses with the application.

**(B) Notice to Interested Persons.** Interested persons should be aware that the notice to abutters

is not legally required under the Act and the Town shall not be liable for any claim of failure to receive notice. Failure of any adjacent property owner to receive notice also shall not invalidate any Planning Commission of Development Review Board action.

### **Section 610. Recording Requirements**

Pursuant to the Act,(4449) (c)(1),within thirty (30) days after a municipal land use permit has been issued or within thirty (30) days of the issuance of any notice of violation, the Administrative Officer or other appropriate municipal official shall deliver the original or a legible copy of the municipal land use permit or notice of violation, or a notice of municipal land use permit generally in the form set forth in the Act (Section 1154 (c)), to the Town Clerk for recording as provided in the Act (Section 1154(a)) and file a copy of that municipal land use permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

## ARTICLE VII. DEFINITIONS

### Section 700. Terms and Uses

(A) Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in Article VII shall have the meanings indicated below when used in this bylaw.

(B) Words, phrases, and terms either defined herein or elsewhere in these bylaws shall have their usual and customary meanings except where the context clearly indicated a different meaning.

(C) The words and terms uses, defined, interpreted or further described in Article VII shall be construed as follows: the particular controls the general; the present tense includes the future tense; words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicated the contrary; the phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for;” the word “shall” is mandatory; the word “may” is discretionary; the word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual; the word “structure” includes “building”; and, the word “lot” includes “parcel” and “plot”.

### Section 701. Definitions

**Accessory Use or Structure:** A use or building customarily incidental and subordinate to the principal use or building and located on the same lot.

**Accessory Dwelling Unit (Statutory Definition):** An efficiency or one-bedroom apartment, located within or attached to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The property has sufficient wastewater capacity
- The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling
- Applicable setback, coverage, and parking requirements specified in the bylaws are met

**Acre:** A measure of land area containing 43,560 square feet.

**Affiliated Ownership:** Ownership of two or more parcels of land owned by an individual, partnership, corporation, association, unincorporated organization, trust or other legal or commercial entity, including a joint venture. Land will be considered in affiliated ownership if two or more parcels are held separately by an individual’s parents, spouse and/or children, unless an individual establishes that he or she will derive no profit or consideration, or acquire other beneficial interest from a determination that two or more parcels are in a non-affiliated ownership.

**Affordable Housing:** Housing is affordable when households, whose gross annual income does not exceed 80 percent of the county median, pay no more than thirty (30) percent of their income on housing. Housing costs for renters include rent and utilities. Housing costs for homeowners

include mortgage principal and interest, property insurance and property taxes.

**Agricultural Use:** Land or structures used for the growing or harvesting of crops; raising of livestock; operation or orchards, including maple sugar orchards; the sale of farm produce on the premises where raised; the processing or storage of products raised on the property, or as otherwise defined by the Commissioner of Agriculture, Food and Markets. Customary farm structures accessory to agricultural uses and on the same lot or parcel as the use shall be included in this definition. See also *Farm*.

**Alteration:** Structural changes, rearrangements, change of location, enlargement or addition to a building; but excluding ordinary repairs and modifications to building equipment.

**Air Pollution:** The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would reasonably interfere with the enjoyment of life or property, in accordance with the establishment or ambient air quality standards for the state as a whole or any part thereof, based on nationally recognized criteria applicable to the State of Vermont [(20 V.S.A. Section 552 (a)(3)].

**Automobile Service Station:** Land or structures used for the sale of petroleum products, motor fuel, oil or other fuel for the propulsion of motor vehicles, which may include facilities for lubrication, washing or servicing motor vehicles. A service station is not a sales or major repair agency for any type of motor vehicles.

**Automobile Service Station and Repair Garage:** Land or structures used for either or both the sale of petroleum products, motor fuel, oil or other fuel for the propulsion of motor vehicles and the maintenance, servicing, and repairing of vehicles.

**Bar:** A room or establishment where the sale and consumption of alcoholic beverages are the primary activities.

**Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Basement:** Any area of the building having its floor subgraded (below ground level).

**Bed & Breakfast:** A single family dwelling in which not more than ten (10) rooms are offered for rent to transient guests on a nightly basis, in addition to the principal occupants who shall reside on premise. Central dining and food preparation facilities may be provided sufficient to serve registered guests; cooking facilities shall not be provided in individual guest rooms.

**Buffer:** A designated strip or area of land intended to visibly and/or functionally separate one use from another; to shield or block noise, lights, or other nuisance from neighboring properties; and/or to lessen the visual or physical impact of development on surface waters, wetlands and other natural and scenic areas.

**Building Envelope:** A specific area delineated on a lot within which all structures are to be located, and outside of which no structures may be located.

**Boarding House (Rooming House):** A dwelling in which lodging is provided by the owner or operator to more than three (3) unrelated people for profit. Boarding houses are distinguished from Motels/Hotels by the sharing of bathrooms, living rooms and/or kitchens.

**Building:** A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or chattel.

**Building Front Line:** The line parallel to the front lot line transecting the point in the building face that is closet to the front lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps and/or handicap ramps.

**Building Height:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**Business Office:** See *Office*.

**Camp or Campground:** Land on which is located a cabin, travel trailer, recreational vehicle, shelter, houseboat or other recreational accommodation for seasonal or temporary living, excluding mobile homes. "Camp" a single structure as defined above that must meet all standards for residential development in the district. "Campground"- any development of more than one camp structure on a single lot, parcel or water area. Includes tent camping facility.

**Cemetery:** Property used for interring the dead.

**Computation of Time:** Where an event is required or permitted to occur by this Regulation before, on or after a specified period of time measured from another event, in calculating the period:

1. The first day shall not be counted; and
2. The final day shall be counted

**Conditional Use:** A use permitted in a particular zoning district only upon a finding by the Zoning Board of Adjustment that such use in a specified location will comply with the conditions and standards of the location or operation of such use as specified in Section 503 of this Bylaw.

**Condominium:** A building or group of buildings in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

**Condominium Association:** A community association that administers and maintains the common property and common elements of condominium.

**Conversion (also Change of Use):** The change of use of land or building from one category of use as listed in the zoning district regulations or defined in this section, to another category of use.

**Cottage Industry:** A commercial, manufacturing or light industrial use which is housed in a single family dwelling or in an accessory structure to a single family dwelling.

**County Inn:** A Country Inn is a lodging establishment serving meals, usually developed from a classic home in a rural setting, having a rustic, comfortable ambiance. For this bylaw, a Country Inn is limited to a maximum of twenty-five guests rooms. Also see *Inn*.

**Coverage (Lot):** That portion of a lot that is covered by buildings, structures and man-made improvements on the ground surface, such as paving, that prevent the absorption of storm water.

**Coverage (Building):** The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory structures on a lot, including the area of all exterior decks, porches and patios.

**Cultural Facility:** A museum, art gallery, theater, concert hall, or other establishment offering programs, performances or exhibits of cultural, educational, historical, or scientific interest, excluding movie theaters and retail galleries.

**Day Care Facility:** A facility providing day care services, for profit or otherwise, for children and/or the elderly. Pursuant to the Act [Section 4409(f)] a state registered or licensed day care facility serving six or fewer children shall be considered by right a constitute a permitted single-family residential use of the property>

**Dump:** Land used for the disposal by abandonment, dumping, burial, burning or any other means for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**Dwelling Unit:** A room or rooms connected together containing cooking, sanitary and sleeping facilities that constitute a separate, independent housekeeping establishment. It shall include prefabricated modular units and mobile homes but shall not include a motel, boarding house, tourist home, shelter or similar structure.

**Dwelling, One Family:** A building used as living quarters by one family.

**Dwelling, Two Family:** A building used as living quarters by two families living independently of one another.

**Dwelling, Multiple Family:** A building used as living quarters by three or more families living independently of one another.

**Educational Facility:** A public or private school or other facility intended specifically for educational purposes which is certified by the Vermont Department of Education.

**Elderly Housing:** Housing specifically designed, build operated and reserved for elderly residents (55 years and older), consistent with state and federal fair housing standards and requirements.

**Excavation/Quarry:** The activity and location of extraction of soil, sand, rock or other earth materials usually involving heavy equipment and posing the potential to cause high levels of noise and dust. Common agricultural tillage, gardening and excavations in cemeteries shall be exempt from this bylaw.

**Family:** One or more persons occupying a single dwelling unit and living as a single household unit.

**Family Childcare or Home Facility:** A family day care home is a day care facility, which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time

basis and the remainder on a part-time basis. For the purpose of this bylaw, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

- These part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
- During the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school aged and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902 (3).

**Farm:** One or more parcels of land, either contiguous or non-contiguous, in affiliated ownership and managed as a single agricultural enterprise. Agricultural land not in affiliated ownership but leased to a farm operator and managed as part of an agricultural enterprise shall not be considered as part of the active farm.

**Farming:** The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding, or management of livestock, poultry, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation, and sale of agricultural products principally produced on the farm; the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

**Flood Hazard Area:** Land subject to one percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Hazard Boundary Map.

**Flood proofing:** Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which substantially 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 (1) foot.

**Forestry (also Silviculture):** The developing, caring for or cultivating of forests, or the management and harvesting of timber.

**Frontage:** That portion of a lot adjacent and parallel to a state highway, town road, town right-of-way, or public waters. In the case of corner lots, it shall be that portion that has or is proposed to have access or the length of the lot boundary measured along the public road right-of-way or mean watermark of a public waterway.

**Funeral Home:** A building used for the preparation of the deceased for burial, for display of the deceased and for ceremonies connected therewith before the burial or cremation.

**Garden/Farm Supply or Nursery:** A retail business or commercial activity concerned with the sale of tools, small equipment, plants and related goods used in gardening or farming. Related goods are defined as only those used on the plant or in its soil to preserve the life and health of the plants sold (e.g., fungicides, peat moss and mulches).

**Gasoline Station:** See *Automotive Service Station*.

**Grade, Finished:** The completed surface grade of grounds, lawns, walks, paved areas, and roads.

**Group Home:** A residential structure or boarding house which provides, for profit or otherwise, room, board and/or personal care to less than six residents who are unrelated to the operator. Pursuant to the Act [Section 4409(d)], a group home licensed or registered by the state which houses less than six residents, usually with medical or development disabilities, shall be considered by right to constitute a permitted single family use of the property, unless it is located within 1,000 feet of another such use.

**Health Care Facility:** A facility or institution, whether private or public, principally engaged in providing services for health maintenance and for the diagnosis and treatment of human ailments, that has equipment and facilities for extensive testing and provisions for extended periods or 24-hour care by full-time certified medical staff.

**Highest Finished Grade:** The highest point on the completed surface.

**Home Occupation:** Any use customarily conducted entirely within a dwelling or accessory structure thereto and carried on by the occupants thereof, which use is clearly incidental and secondary to the use for dwelling purposes. It must not change the character of the dwelling or neighborhood.

**Hotel:** See *Motel*.

**Impervious Surface:** Any material which reduces or prevents absorption of storm water into previously undeveloped land. Impervious surfaces include graveled or paved streets, roads, parking areas or driveways, as well as buildings and other man-made structures.

**Inn:** A commercial facility for the housing and feeding of transient guests. Such use must include food service for guests within the structure and may include a restaurant with or without a lounge. *County Inn*— An inn meeting the requirements of Section 305 of this Bylaw.

**Industry:** An activity primarily concerned with enclosed manufacturing, processing or warehousing of goods.

**Junkyard:** Any place of storage or deposit, whether in connection with a business or not, which is maintained, operated or used for storing, keeping, processing, buying or selling junk or as scrap metal processing facility. The term does not include a private garbage dump or a sanitary landfill which in compliance with Section 2202 of Title V.S.A. and under regulation of the Secretary of Human Services. It does mean a garage where wrecked or disabled motor vehicles are stored for less than ninety (90) days for inspection or repairs.

**kennel:** An establishment in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained, or sold.

**Land Development or Development:** The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or

extension of the use of land. Land Development shall not include customary property maintenance activities.

**Light Industry:** Industrial activities of a moderate nature that meet the specific standards set out in Section 405 of this Bylaw.

**Loading Space:** Off-street space used for the temporary location of licensed motor vehicles for loading and unloading purposes.

**Lot:** A parcel of land undivided by any street or road, and occupied or to be occupied by only one primary structure or principal use and the accessory buildings or uses customarily incidental to such structures or uses. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or other means of access approved by the Planning Commission. In no case shall the division or combination of land result in the creation of a parcel which does not meet the requirements of this Bylaw.

**Lot Area:** The total area within the property lines, excluding any part thereof lying within the boundaries of a public street or proposed public street.

**Lot, Corner:** A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135°). The front line for corner lots shall be found from the line parallel to the front of the building or the street used to identify the lot.

**Lot Frontage:** Distance measured across the width of the lot along the edge of the street line.

**Lounge:** See *Bar*.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor".

**Manufacturing:** Any process whereby the nature, size or shape of articles or raw materials is changed, or where articles are assembled and packaged.

**Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. For flood hazard area management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For flood insurance purposes, the term does not include park trailers, travel trailers and other similar vehicles.

**Mixed Use:** A structure or land containing two or more land use types.

**Mobile Home:** See Manufactured Home.

**Mobile Home Park:** A parcel of land under single or common ownership or control which contains or is designed, laid out or adapted to accommodate three or more mobile homes and meeting the requirements of 10 V.S.A. Chapter 153.

**Motel:** A building containing bedrooms and other facilities for occupancy and use by transients on a short term basis of less than one month average, and having a management entity operating the building(s) and providing such services as maid service, a central switchboard, or dining facilities to occupants of the lodging facility. Where rooms in the building(s) are under separate ownership, a rental and management contract between the owner and a rental and management agent or agents are required. For purposes of this definition, separate ownership includes, but is not limited to, interval ownership in fee or leasehold, condominium ownership and cooperative ownership with proprietary lease.

**Non-Complying Structure (Pre-existing):** A structure or building the size, dimension or location of which does not comply with all zoning regulations for the district in which it is located, where such structure or building conformed to all applicable laws, Bylaws and regulations prior to the enactment or amendment of this Bylaw.

**Non-Conforming Use (Pre-Existing):** Use of land or structure that does not comply with all zoning regulations for the district in which it is located, where such use conformed to all applicable laws, Bylaws and regulations prior to the enactment or amendment of this Bylaw.

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

**Nursery School:** *See Day Care Facility.*

**Office (Professional/Business):** A room or group of rooms wherein services are performed involving predominately administrative, clerical or professional operations.

**Office Building:** A building used primarily for conduction the affairs of one or more businesses, professions, services, studios or governmental agencies.

**Open Space:** The undeveloped portion of any development parcel (s) which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces, commercial recreation facilities, or yard areas, and which is set aside, dedicated, or designated for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, or for the preservation and continued use of agricultural land, or for the protection of natural areas.

**Permitted Use:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**Personal Service:** Includes a barbershop, hairdresser, beauty parlor, shoe repair store, laundry, Laundromat, dry cleaner, travel agency, upholsterer, caterer or other business providing similar services of a personal nature.

**Place of Worship:** A church, synagogue, temple, mosque or other facility used for conduction formal religious ceremonies or services on a regular basis.

**Planned Development (Cluster Zoning):** Planned Residential (PRDs) and Planned Unit (PUDs) Developments are designed to cluster housing and/or business use to provide open space and preserve natural resources. See section 505.

**Professional Offices:** The office of a member of a recognized profession maintained for the conduct of that profession. Professionals associated with this definition include doctors, dentists, architects, engineers, accountants, etc.

**Public Assembly Facility:** Office and/or meeting facilities open to the public which are intended for use by any municipal, state or federal government, public utility or other quasi-public institution, including educational facilities.

**Public Facility/Service:** A facility or utility maintained by municipal, state or federal government, a public utility or other semi-public institution which is not usually open or accessible to the public, including but not limited to solid waste management facilities; ambulance and fire stations; garages and equipment sheds; water and wastewater treatment facilities and public utility facilities.

**Quarry:** See *Excavation/Quarry*.

**Recreation, Indoor:** Includes an indoor bowling alley, theater, tennis facility, pool hall, skating rink, gymnasium, swimming pool or similar place of indoor recreation. When operated for a for-profit basis, it is *Commercial Indoor Recreation*; when operated in such a manner as to restrict entrance to members and their guests, it is *Private Indoor Recreation*; and when operated by public agency, it is *Public Indoor Recreation*.

**Recreation, Outdoor:** Includes a trap, skeet, and/or archery range, golf course, swimming pool, amusement park, outdoor concert area, tennis court, skiing facility or similar place of outdoor recreation. When operated for a for-profit basis, it is *Commercial Outdoor Recreation*; when operated in such a manner as to restrict entrance to members and their guests, it is *Private Outdoor Recreation*; and when operated by public agency, it is *Public Outdoor Recreation*.

**Recreation Vehicle:** See Trailer.

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

**Repair Service:** Activities concerned with the repair and/or maintenance of small equipment, such as residential lawn mowers, television sets, appliances and other similar items.

**Residence:** A dwelling unit where an individual(s) is actually living at a specific point in time. See Dwelling Unit.

**Residence Office:** The portion of one's residence used as a business, professional service, industrial or government office.

**Residential Use:** A one-family, two-family or multiple family dwelling. See Dwelling Unit.

**Resource Industry:** An activity involved in the primary processing of agricultural or forestry products, including saw mills, but excluding those activities identified in the definition of Agricultural Use or Farm.

**Restaurant (With or Without Lounge):** A structure for public eating in which the primary business is the preparation and serving of food for consumption on the premises.

**Retail Store:** Establishment where goods or merchandise are offered for retail sale or short term rental to the general public for personal, business or household consumption and services incidental to the sale of such goods are provided. For the purposes of this Bylaw, the following uses are excluded from the definition of retail store: restaurant, automobile service station, new and used car sales and service and trailer and mobile home sales and service.

**Rooming House:** See Boarding House.

**Setbacks:** Required distances from lot lines to structures. See *Yard*, Front, Rear and Side.

**Sign:** Any object, device, display or structure, or part thereof, situated outdoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projecting images.

**Sign Area:** The entire face of a sign including the advertising surface and any framing, trim or molding, but not including the supporting structure.

**Site Development Plan:** The plan for the development, including change in use of one or more lots. Plans shall be drawn in accordance with the requirements of this Bylaw.

**Stream:** A watercourse having a source and terminus, banks, and channel through which water flows at least periodically.

**Street:** A public traveled way including the land between street lines, whether improved or not, the right-of-way of which is dedicated by a deed or record.

**Structure:** Anything constructed or erected for occupancy or use, including but not limited to a building, mobile home or trailer, sign, satellite dish antennae, walls or fence, except a wall or fence on an operating farm.

**Subdivision:** Division of any parcel of land for the purposes of conveyance, transfer of ownership, lease, improvement, building, development or sale, whereby two (2) or more lots, blocks or parcels are created. The term "subdivision" includes re-subdivision. For the purposes of this Bylaw, the word "lots" shall also mean units for any project involving condominiums, cooperatives and/or the designation of Planned Development.

**Substantial Improvement:** Repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (a) before the change or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either (a) any project for improvement of the structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a structure listed on the National Register of Historic Places of a State Inventory of Historic Sites. Substantial improvement covers substantial change.

**Telecommunications Facility:** A facility that transmits or receives electromagnetic signals, to include antennas, microwave dishes, horns, poles, cables and other types of equipment for the transmission or receipt of such signals; telecommunication towers or similar supporting structures; equipment buildings and parking areas; and other types of accessory development.

**Trailer:** A vehicle capable of being used as a seasonal sleeping or living quarters, not exceeding three hundred (300) square feet in floor area, whether self-propelled or towed, or a camper body mounted on a motor vehicle. Trailer shall also include any vehicle that may be towed or used for carrying goods, equipment, machinery or recreation vehicles, or as a site office. See *Camp*.

**Trailer Camp:** See *Campground*.

**Veterinary Clinic:** The use of buildings and the property on which they are located for the care of animals, including boarding, major surgery and all other veterinary services.

**Warehousing:** Facilities for handling freight and/or goods for daily use or storage, with or without maintenance facilities.

**Wildlife Refuge:** An area set aside for the conservation of plants, animal's and [sic] general environment within it. These are noncommercial areas usually without any structures on them. A single parking area and walking trails are characteristic of a wildlife refuge.

**Yard:** Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into the required yard.

**Yard, Front:** A space extending across the full width of the lot between any building and the street (front lot) line, and measured perpendicular to the building at the closest point to the street (front lot) line, excluding entry steps and handicap ramps. In the case of a corner lot, the required front yard dimension shall apply on all streets.

**Yard, Rear:** A space extending across the full width of the lot between the principal building and rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

**Yard, Side:** A space extending from the front yard to the rear yard between the principal building and the side lot line, and measured perpendicular to the buildings to the closest point to the side lot line.