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Village of North Bennington, Vermont

Land Use and Development Regulations

Adopted by the Trustees of the Village of North Bennington

June 10, 2025

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Village of North Bennington, Vermont

Land Use and Development Regulations

Date of Adoption June 10, 2025

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UNDERSTANDING THIS DOCUMENT

Introduction

This is a brief introduction for anyone approaching this document for the first time. To understand the why of these regulations, it is valuable to understand the overriding purpose of zoning. We have a beautiful village, and we need to both preserve what is best and look to the future, to honor our history and enhance the opportunities to live and work here. These regulations have a chicken and egg relationship to the Village Plan. The Village Plan establishes the guidelines, and the Land Use and Development Regulations provides a regulatory framework in support of those guidelines. The Village Plan is required to be updated on a regular basis, and the Land Use and Development Regulations need to support the Plan's vision.

The Village Planning Commission is a volunteer group whose members have been approved by the Village Trustees to create and amend these documents. The Commission's responsibilities include researching the status of numerous aspects of Village life and then drafting a Village Plan for the future. Additionally, the Commission amends the Land Use and Development Regulations in concert with the vision of the Village Plan. Virtually all meetings of the Commission are open to the public.

Once their work is completed, they turn over their product to the Village Trustees for their review, and if so voted, it is presented to the Village. The Village may comment on the Village Plan and Land Use and Development Regulations. Once approved by the Trustees, the Regional Planning Commission and the State of Vermont must choose to approve or reject the documents. This process is similar for all 256 municipalities in Vermont.

Neither the Village Planning Commission nor the Village Trustees nor the Regional Planning Commission have free rein. The State of Vermont has statutes that define what any municipality may or may not do. The State may impose specific requirements on municipalities at any time by passing or amending a statute.

It is reasonable to guess that wherever you live and sleep, you would prefer that your immediate neighbor was not, as an extreme example, a rock quarry with regular blasting, dust, earth removal, and constant truck traffic. Zoning is a means of defining areas of our Village and their uses such that adjoining and nearby uses are compatible. Zoning is a means to reinforce the character, scale, and conviviality of our Village. To control those factors, the Village has expended a great deal of energy to create clear rules and fair processes that apply to construction in the Village. A fence, a wall, a shed, a house, a mansion, a housing development, and more fall under these rules.

Where to Start

An employee of the Village, the Zoning Administrator, will help you through the process of securing a permit or permits. Please start there. Only selective parts of this document will apply to your project, and the Zoning Administrator can assist in directing you to the relevant text and obligations you will need to satisfy before beginning your project. Some projects require approvals from entities outside of the Village government. The Zoning Administrator can assist you in identifying the process steps ahead of you that bear upon receiving your zoning approval.

The Zoning Administrator's email address is zoning@villagenorthbennington.org and phone number is 802 430 3168.

As An Example - A Simple Project

As for all projects, begin by contacting the Zoning Administrator with your proposed project location and a description of the project that you would like to undertake. Fill out your application, documenting your project's scope, and pay your fee based on the size of your project and the type of reviews that may be required. If the Zoning Administrator deems the application complete and is authorized to review the scale of project that you are proposing, then in most circumstances he or she will give you a decision in writing within thirty days.

Should it be approved, you will need to place a notice on the property indicating the approval and wait 15 days before beginning the work, allowing an appeal to be lodged, although that is rare. If no appeal is forthcoming and there are no conditions encumbering the permit that would affect the start date, the construction of the project may begin. Your permit will identify its duration. It is not open ended.

The Zoning Administrator may from time to time review the progress of the project for compliance with these regulations and any conditions supplementing the permit. At the project's completion the Zoning Administrator will review any requirements necessary to identify the project as complete and, if these are fully satisfied, will issue a Certificate of Completion. In the case of a building project, the Certificate of Completion will permit occupancy of the building.

The Village encourages development that aligns with the goals of the Village Plan.

The Organization of This Document

Sections 1 and 2 are required for legal purposes and will likely have little to do with the process before you. Section 3 has helpful definitions. Section 4 identifies the process that will be followed

from an application to its resolution. Section 5 has general rules, in most cases applying to all zoning districts. Section 6 has several tables that identify by district what uses are permitted, may be approved, or are prohibited and the types of reviews that may apply to your application. Section 7 indicates the criteria that will be used in determining how your application may be resolved. Section 8, 9, 10, and 11 are regulations that are superimposed on areas of multiple districts. They address the historic, the flood hazard, the shoreland, and the municipal infrastructure overlay areas, respectively. Section 12 identifies the regulations for subdividing land into additional parcels and the regulations that apply to large developments. Section 13 is where you will find the map of the Village. It provides you with the boundaries of all the Village's districts.

SECTION 1: PURPOSE, AUTHORITY, AND ENACTMENT

1.1 Purpose

These regulations implement the goals of the *Village of North Bennington Village Plan* and advance the goals of the Vermont Planning and Development Act. Specifically, these regulations are intended to:

1. Strengthen the sense of community in the Village.

2. Protect public health, safety, and general welfare.

3. Guide the future growth and orderly development in the Village.

4. Provide for safe, sanitary, and affordable housing.

5. Provide for adequate and efficient public facilities, transportation, potable water, and wastewater treatment, schools, parks, playgrounds, recreation, and other public requirements and facilities.

6. Provide the most beneficial relationship between land use and traffic circulation to avoid congestion and enhance safety.

7. Prevent pollution and encourage the wise use and management of natural resources, to preserve the integrity, stability, and beauty of the community and the value of the land.

8. Establish standards for the design of subdivisions and developments so that the traditional character and charm of the Village is maintained.

9. Support appropriate economic development efforts.

1.2 Authority

The Village of North Bennington establishes and administers these regulations in accordance with the Vermont Planning and Development Act, Title 24 V.S.A., Chapter 117.

1.3 Effective Date

These regulations, upon becoming effective, repeal and replace any zoning, subdivision, or unified regulations previously in effect. Refer to 24 V.S.A., Chapter 117, Section 4442.1.4.

1.4 Amendment

These regulations, including any maps incorporated by reference, may be amended or repealed at any time if undertaken as provided for within the Vermont Planning and Development Act, Title 24 V.S.A., Chapter 117, Section 4441.

1.5 Adoption of Amendments

Revisions to these regulations shall be undertaken in accordance with the Vermont Planning and Development Act, Title 24 V.S.A., Chapter 117, Section 4442.

1.6 Interpretation of These Regulations

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements adopted for the promotion of public health, safety, comfort, convenience, and general welfare. It is not intended by these regulations to repeal, abrogate, annul, or in any way to impair or interfere with existing provisions of the law or ordinance, or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises; nor is it intended by these regulations to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where these regulations imposes a greater restriction upon the configuration or use of land or structures than are imposed or required by existing provisions of law or ordinance, or by such rules, regulations or permits or by such easements, covenants, or agreements, the provisions of these regulations shall control.

These regulations in promotion of public health shall supersede the regulations of any governmental agency or commission whose rulemaking has been determined in a court of law to have been undertaken in bad faith, in a capricious or arbitrary manner, without due regard to an evidentiary basis, or in violation of Federal or State Statute until such time as the agency or commission’s rulemaking has satisfied the court.

1.7 Severability

If any provision of these regulations is held unconstitutional or invalid by a competent court, the remainder of these regulations shall not be affected.

SECTION 2: LIMITATIONS

2.1 Limitations

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:

(A) State- or community-owned and -operated institutions and facilities;

(B) public and private schools and other educational institutions certified by the Agency of Education;

(C) churches and other places of worship, convents, and parish houses;

(D) public and private hospitals;

(E) regional solid waste management facilities certified under 10 V.S.A. chapter 159;

(F) hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a;

(G) emergency shelters; and

(H) hotels and motels converted to permanently affordable housing developments.

These Regulations shall not limit the daily or seasonal hours of operation of an emergency shelter.

These regulations shall not regulate electric generation facilities, energy storage facilities, and transmission facilities regulated under 30 V.S.A. § 248 or subject to regulation under 30 V.S.A. § 8011.

These Regulations shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices that are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or

(C) forestry operations.

SECTION 2: LIMITATIONS

As used in this section:

(A) “Farm structure” means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

(B) “Forestry operations” has the same meaning as in 10 V.S.A. § 2602.

A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

Nothing in these Regulations shall prevent an appropriate municipal panel, when issuing a decision on an application for land development over which the panel otherwise has jurisdiction under this chapter, from imposing reasonable conditions under subsection 4464(b) of this title to protect wildlife habitat; threatened or endangered species; or other natural, historic, or scenic resources and does not prevent the municipality from enforcing such conditions, provided that the reasonable conditions do not restrict or regulate forestry operations unrelated to land development.

These Regulations shall be subject to the restrictions created under section 2295 of this title, with respect to the limits on municipal power to regulate hunting, fishing, trapping, and other activities specified under that section.

Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not:

(1) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, “flat roof” means a roof having a slope less than or equal to five degrees.

(2) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (1) of this subsection, clotheslines, or other energy devices based on renewable resources.

Except as necessary to ensure compliance with the National Flood Insurance Program, these regulations shall not regulate any of the following:

(A) an ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet;

(B) the following improvements associated with the construction or installation of a communications line:

SECTION 2: LIMITATIONS

(i) the attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole;

(ii) the replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

For purposes of this subsection:

(A) “Ancillary improvement” shall have the same definition as is established in 30 V.S.A. § 248a(b).

(B) “Communications line” means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes.

2.2 Flood Hazard Area and River Corridor Rule

The Vermont Flood Hazard Area & River Corridor (FHA&RC) Rule (effective 3/1/2015) regulates activities exempt from municipal regulation in flood hazard areas and river corridors. These activities include:

- state-owned and operated institutions and facilities;
- accepted agricultural and silvicultural practices; and,
- power generation, transmission, and telecommunication facilities seeking a Certificate of Public Good from the Public Service Board (30 V.S.A. §§ 248 and 248a)

SECTION 3: DEFINITIONS

Note: Specialty definitions not found in this listing may be found in other parts of this document and will be applicable throughout.

Accessory dwelling unit: See Dwelling Unit, Accessory

Accessory Use: A use customarily incidental and subordinate, and reasonably necessary, to a principal use on the same lot.

Abandon: The cessation of use or activity, or the cessation of construction, use, occupation, or maintenance of a building or structure, without intent to resume.

Administrative Officer: Zoning Administrator.

Affordable Housing: Affordable housing means housing that is either: (a) Owned by its inhabitants, whose gross annual household income does not exceed 80% of the median income for the Bennington County as defined by the United States Department of Housing and Urban Development; and the total annual cost of housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30% of the household's gross annual income; or (b) Rented by its inhabitants whose gross annual household income does not exceed 120% of the median income for Bennington County as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 % of the household's gross annual income.

Agricultural Enterprise: A small business that is a natural extension of a farm and is integrated with an active agricultural use including, but not limited to, on-farm cafes, corn mazes, pick-your-own operations, wine-tasting rooms, on farm retail store or event venue, and farming demonstrations or education.

Agriculture: Agriculture (or farming as defined by the State of Vermont) means (a) The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; (b) The raising, feeding, or management of livestock, poultry, equines, fish, or bees; (c) The operation of greenhouses; (d) The production of maple syrup; (e) The on-site storage, preparation, and sale of agricultural products principally produced on the farm; (f) The on-site production, preparation, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or (g) The raising, feeding, or management of 4 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.

Assisted Living Residence: A program facility that combines housing, health, and other services to support resident independence and aging in place. At a minimum, assisted living residences shall offer, within a homelike setting, a private bedroom, private bath, living space, kitchen capacity, and a lockable door.

Attic: The space immediately below the roof of a structure. For the purposes of determining height, an attic will be considered a full story if more than 50% of the floor area has a height of 7 feet or more between the top of the floor joists and the bottom of the roof rafters.

Bed and Breakfast: A building designed to house a room and board lodging business for persons on a daily or weekly basis for a period not to exceed 28 consecutive days accommodating not more than 10 people and employing not more than 2 non-family full-time equivalent employees. This type of lodging is a home occupation business in a single-family residential building; it must comply with the licensing requirements of the Lodging Establishments Rules of the Department of Public Health regardless of the number of units.

Boarding House: A single-family dwelling where rooms are rented for compensation to lodgers for a contract period of not less than 30 days and where the rented rooms do not include individual cooking or eating facilities. Lodgers may be provided or be able to make meals in a common kitchen and eating area, but no meals may be provided to outside guests. The owner or manager of the boarding house must live in the facility as their primary residence.

Building: Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or materials. Any other structure more than eight feet high shall be considered a building, including a solid fence, wall, or device to access renewable energy resources, or sound or television waves, but excluding public utility poles, highway or railroad bridges, or flagpoles.

Building, Accessory: Any building which is subordinate to and whose use is clearly incidental and accessory to the use of the principal building on the same lot, or on an adjoining lot, under the same ownership. An accessory building is not attached to the principal building by any covered porch, breezeway, or other roofed structure. See Section 6 for additional criteria.

Building, Principal: The building containing the principal use of the lot or parcel, as opposed to a building containing a use customarily incidental to the principal use.

Building Area: the ground area enclosed by the walls of a building, together with the area of all covered porches and other roofed portions.

Building Coverage: The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

Building Height: The vertical distance as diagramed and noted in Section 6.

Building Line: A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise legally established by the Village or by a private covenant.

Care Home, Adult or Child: A home or facility where the owner or operator is licensed or registered by the state for adult or childcare. A care home provides day care services only; no residential or overnight care shall be provided.

Character of the Area, Neighborhood, or District: The image and perception of an area as defined by factors such as its built environment, land uses, transportation network, landscaping, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services. Standards that require uses to be compatible with the character of the area must consider the generation of light, noise, dust, and traffic, and the location, size, and design of structures, among other characteristics, as compared to what is typical in or planned for the area as described in the purpose statement of the zoning district and the land use goals and policies of the Village of North Bennington Plan.

Community Care Facility: A residential care facility licensed by the state which provides up to 24-hour supervision, personal care services, and limited medical services to individuals who need care, protection, and/or assistance to sustain the activities of daily living.

Congregate Housing: A facility for long-term residence by individuals with a handicap or disability and which shall include, without limitation, common dining and social and recreational features; special safety and convenience features designed for the needs of the residents, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways, and doorways designed to accommodate wheelchairs; and the provision of social services for residents which include at least two of the following: meal services, transportation, housekeeping, linen, and organized social activities.

Context-Sensitive Design: A design approach that is location-specific and that begins with developing a thorough understanding of a site’s unique physical, ecological, cultural, and historic

setting to make sound choices about where and when not to build, how to best fit development into the wider landscape and community, and preservation of significant scenic, aesthetic, historic and natural resources.

Dates: Enacted – the initial date these regulations were first in force; **Draft** – the date of a version of these regulations containing revisions that are not in force; **Adopted** – the date that the Village Trustees approved an update of these regulations; **Effective** – the date a revised version of these regulations come into force.

Day: A non-Federal-or-State-Holiday weekday.

Discontinued: Cessation of a use or occupancy and failure to seek occupancy or use through advertisement or sales agent or other evidential process.

District: A delineated area of land established under the provisions of these regulations and the Vermont Planning and Development Act.

Duplex: See Dwelling, Two-Family.

Dwelling, Multi-Family: A building containing separate dwelling units for three or more households, having separate or joint entrances, services, or facilities.

Dwelling, One-Family: A detached building designated for or occupied solely as a dwelling by one household.

Dwelling, Two-Family: A detached building designated for or occupied solely as a dwelling by two households living independently of each other with a shared wall and/or floor/ceiling and where neither dwelling is an accessory dwelling unit.

Dwelling Unit: A dwelling or part of a dwelling occupied or intended to be occupied by one household for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants. Dormitories, Boarding Houses, and Congregate Housing consist of individually occupied rooms, and such rooms are not of themselves dwelling units.

Dwelling Unit, Accessory: An efficiency or one-bedroom dwelling unit located within or sharing the same parcel with an owner-occupied one-family, principal dwelling. It is a unit that is clearly subordinate to the principal dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. It shall be served with potable water service,

have sufficient wastewater capacity, and shall not exceed 30 percent of the total habitable floor area of the principal dwelling or 900 square feet in floor area, whichever is greater.

Family: Any number of individuals non necessarily related by blood, marriage, or adoption, living together as a single housekeeping unit may be considered a family. (Also see Household.)

Family Childcare Home: See Care Home, Adult or Child

Hotel: A building providing lodging for persons with or without meals, and intended for the accommodation of transients, and so designed that normal access and egress are controlled from a central point. A hotel is not a dwelling. This business must comply with the licensing requirements of the Lodging Establishments Rules of the Department of Public Health.

Household: A social unit, often a family, characterized by one or more persons who live and eat separately from occupant(s) of other living quarters, if any, in the same building.

Interested Person: See Title 24 V.S.A., Chapter 117, Section 4465 (b). An interested person means any one of the following:

(1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

(3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.

(4) Any twenty persons who may be any combination of voters, municipal residents, or real property owners within a municipality listed in (2) of this definition who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the

appeal. An appeal shall not include the character of the area affected if the project has a residential component that includes affordable housing.

(5) Any department and administrative subdivision of this State owning property or any interest in property within a municipality listed in (2) of this definition and the Agency of Commerce and Community Development of this State.

Lot: A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses incidental to it, including such open spaces as are required by these regulations. In the case of multiple dwellings and public, institutional, commercial, industrial, or agricultural buildings, a group of buildings on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot.

Lot, Corner: A lot at the intersection of and abutting on two or more streets where the angle of intersection is not more than 135 degrees or where the intersection is rounded by a curve having a radius of less than one hundred feet.

Lot, Interior: A lot other than a corner lot or through lot.

Lot, Line: The established division line between lots or between a lot and a street.

Lot Line, Front: All dividing lines between a street and the lot shall be considered front lines.

Lot Line, Rear: The line or lines bounding a lot at the rear and approximately parallel to, and at the maximum distance from, the front lot line.

Lot Line, Side: The line or lines bounding a lot which extends from the street toward the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

Lot, Minimum Width Of: The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lot lines, which line of measurement shall touch but not be in front of the building line. In the case of a corner lot, the minimum width shall be similarly measured and, for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front lot line, and the lot lines adjacent thereto shall be considered as side lot lines.

Lot, Through: A lot other than a corner lot, which abuts two or more streets which do

not intersect at the lot.

Manufacturing: Shall include fabricating, assembling, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of these regulations.

Manufacturing, Light: A custom workshop where the manufacturing and/or assembly of small quantities of materials or goods is performed by tradesmen or craftsmen requiring manual, mechanical, or artistic skills.

Mobile Home: A prefabricated dwelling unit which is (1) designed for continuous residential occupancy with connection to a permanent water supply and sewage disposal system; and (2) is designed to be moved on wheels, as a whole or in sections. In accordance with Title 24 V.S.A., Chapter 117, Section 4412, a mobile home shall be considered a single-family dwelling and cannot be excluded from a zoning district except on the same terms and conditions as conventional housing is excluded.

Mobile Home Park: Any premises used or permitted to be used for locating three or more occupied mobile homes.

Motel: A building or group of buildings providing lodging for persons, intended primarily for the accommodation of transients, having a private outside entrance for each room or suite of rooms, and for each of which rooms or suites of rooms automobile parking is provided on the premises. A motel is not a dwelling. This business must comply with the licensing requirements of the Lodging Establishments Rules of the Department of Public Health.

Noncomplying Structure: A structure or part thereof lawfully in existence on the effective date of these regulations, but not in compliance with the provisions of these regulations, including but not limited to building size, location, height, setback, area, yards, density, or off-street parking or loading requirements, where such structure complied with all applicable laws, ordinances, and regulations prior to the enactment of these regulations.

Nonconforming Use: A use of land, building, or premises which is not a use permitted by the provisions of these regulations for the district in which such land, building, or premises are situated, but which was legally existing at the effective date hereof, or of any pertinent amendment hereto.

Open Space: The area of a lot that is not occupied by buildings, other roofed structures, or parking lots.

Parking Space: a clear area measuring nine feet wide by eighteen feet long (twenty feet long is strongly recommended) for the temporary placement of motor vehicles; slope front to back and side to side not to exceed five percent. For accessible parking space dimensions see Federal requirements. (Note: Existing nonconforming parking spaces shall count toward parking required for new residential units.)

Planned Unit Development: an area of land, controlled by a landowner, to be developed as a single entity for three or more dwelling units and/or a mix of residential and non-residential uses, the plan for which does not correspond in lot size or bulk, density, lot coverage, or yard sizes to the standards set forth in these regulations for the district in which the development is located. See Title 24 V.S.A., Chapter 117, Section 4417.

Professional Office: A room, suite of rooms or building principally used for conducting the affairs of a business, profession, or service industry. This definition specifically excludes on-premises retail sales.

Public Sewer: A system of sanitary sewers owned and operated by a municipality or other governmental unit.

Public Water Supply: A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the state of Vermont for purposes of public water supply.

Recreational Riding Vehicles are multi-wheeled, motorized vehicles utilizing fossil fuels for locomotion and used for recreational purposes including but not limited to motorbikes, motor trikes, snowmobiles, and all-terrain vehicles.

Recreational Riding Vehicle Tracks are pathways utilized by recreational vehicles for recreational purposes on a repetitive basis.

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

Shelter, Emergency: Emergency shelter means any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and that does not require occupants to sign leases or occupancy agreements.

Short-Term Rental: A furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year. Meals shall not be served to guests. See footnote 16 to table 6.2.2.1 and Section 7.2.8.

Stream: Any surface water course in the Village of North Bennington depicted on US Geological Survey topographic maps or identified through site investigation but excluding mill ponds formed by impoundments along Paran Creek.

Street: A municipal or state highway or other right-of-way approved by the Development Review Board. The word street shall mean the entire right-of-way. If a boundary of the right-of-way has not been defined in a legal deed accepted by the Village, or has not been surveyed and so recorded, and is not marked by a fence line or other physical feature, the boundary shall be deemed to be 25 feet from the center line of the traveled way. A new or proposed subdivision street shall adhere to construction requirements (Design Standards for local roads) as defined by the Vermont Agency of Transportation.

Street Line: The line dividing the street and the lot.

Structure: An assembly of materials on the land for occupancy or use, including but not limited to a building, mobile home or trailer, shipping container, residential dwelling unit on a wheeled frame (aka tiny home), shed, sign, wall, or fence.

Travel Trailer: A vehicle intended or used primarily for recreational travel purposes which rests on its own wheels, a truck or camper body, or is towed by a motor vehicle. This definition includes recreation vehicles, tent trailers, and any other motor vehicle whose body has been equipped for occupancy for recreational purposes, but specifically excludes mobile homes.

Use: (1) The purpose for which a building, structure, or parcel of land is designed, intended, or occupied or used; (2) any activity carried out upon any premises or within any structure upon a premises.

Wetlands: Those areas of the Village which are inundated by surface or ground water with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally

saturated soil conditions for growth and reproduction. Wetlands shall include, but may not be limited to, wetlands shown on the most recent Vermont Significant Wetlands Inventory maps or the National Wetlands Inventory maps which are classified as, or contiguous to, Class One or Class Two wetlands. Wetland boundaries and required buffer areas shall be determined by on-site inspection by the Vermont Department of Environmental Conservation.

Yard, Front: An open space between the building and the front lot line, extending the full length of the lot, or in the case of a corner lot, extending along all streets.

Yard, Required: The areas of the front, rear, or side yard, as required by the applicable provisions of these regulations.

Yard, Rear: An open space between a building and the rear lot line, extending the full length of the lot.

Yard, Side: An open space between a building and a side lot line, extending the full length of the lot.

Yard, Depth or Width: The depth of front and rear yards, and the width of side yards, shall be measured perpendicularly to the respective lot lines.

Zoning Administrator: Administrative Officer, as identified by State Statute.

SECTION 4: ADMINISTRATION AND ENFORCEMENT

4.1 General Administration

4.1.1 Zoning Administrator

The Planning Commission nominates and the Village Trustees appoints a Zoning Administrator and an Acting Zoning Administrator to three-year terms.

Zoning Administrator is responsible for administering these regulations. The Zoning Administrator must enforce the provisions of these regulations and the Vermont Planning and Development Act (24 VSA Chapter 117) literally and must not permit any land use or development that is not in conformance with these regulations.

The Zoning Administrator is responsible for assisting applicants with applications for proposed projects that require an approval from the Development Review Board and for providing technical assistance to the Development Review Board during the development review process.

If the position of Zoning Administrator is vacant, the Acting Zoning Administrator will be authorized to carry out the responsibilities of the Zoning Administrator under these regulations.

4.1.2 Development Review Board

The Village Trustees appoint members to serve on the Development Review Board. The Village Trustees may appoint alternates to serve on the Development Review Board in situations where one or more members have a conflict of interest or are otherwise unable to serve.

The Development Review Board is responsible for development review functions that require a public hearing under these regulations. The Zoning Administrator shall refer applications to the Development Review Board as required under these regulations.

4.1.3 Fees

1. Permit Fees. The Trustees may establish fees for the Zoning Administrator or other Village employees to charge for administering these regulations. These fees may include, but are not limited to, the cost of posting and publishing notices, holding public hearings, recording documents, and conducting periodic inspections.
2. Technical or Legal Review. The Development Review Board and/or Zoning Administrator may require an applicant to pay the cost of an independent technical or legal review of an application based on procedures and standards established by the Village Trustees. The Zoning Administrator or Development Review Board may hire qualified professionals to assist in the review of an application when deemed necessary to ensure compliance with these regulations.
3. Inspection or Monitoring. The Village Trustees may establish procedures and standards for requiring an applicant to pay the costs of ongoing monitoring and inspection of development. The Zoning Administrator or Development Review Board may condition approval upon such monitoring and inspection when deemed necessary to ensure compliance with these regulations.
4. Impact Fees. The Village Trustees may establish procedures and standards for requiring an applicant to pay impact fees.

4.1.4 Site Visits and Inspections

When reviewing an application, the Zoning Administrator or Development Review Board may request a site visit. An applicant's refusal to allow a site visit may serve as grounds for denying a zoning permit or development approval. If the Development Review Board will be conducting a site visit, it must be warned as part of the hearing and open to the public.

The Zoning Administrator may enter onto a property as necessary to inspect development under construction authorized by a zoning permit as necessary to ensure compliance with these regulations and any permit conditions. If the applicant or contractor refuses to allow the Zoning Administrator onto the property, the Zoning Administrator may revoke the zoning permit.

The Zoning Administrator may enter onto a property as necessary to investigate an alleged violation of these regulations. If the owner or occupant refuses to allow the Zoning Administrator onto the property, the Zoning Administrator may seek a warrant as authorized by State law.

4.1.5 Surety

The Zoning Administrator or Development Review Board may require an applicant to provide a performance bond or similar surety as a condition of approval to ensure the completion of required improvements. The amount, form, manner of execution, and period of the bond or surety must meet

statutory requirements and be satisfactory to the Village Trustees. The bond or surety will only be released after a written certification by the applicant and a written determination by the Zoning Administrator that the required improvements have been satisfactorily completed.

4.1.6 As-Built Drawings and Designer Certifications

The Zoning Administrator or Development Review Board may require an applicant to file as-built drawings as a condition of approval and/or prior to issuing a certificate of completion. As-built drawings will be required for any infrastructure to be built within public rights-of-way or to be turned over to the Village.

The Zoning Administrator or Development Review Board may require the applicant to provide certification(s) from the project designer(s) attesting that development was constructed in accordance with the approved plans as a condition of approval and/or prior to issuing a certificate of completion.

4.1.7 Other Approvals, Permits, and Certifications

Development may require permits from the State of Vermont in addition to or in lieu of a zoning permit from the Village of North Bennington. Applicants should contact a Vermont State Permit Specialist to determine whether State permits must be obtained prior to the start of construction.

The Zoning Administrator or Development Review Board may require an applicant to file a copy of any other approvals, permits or certifications for the development including, but not limited to, State or Federal wetland permits, State stormwater permits, State wastewater and water supply permits, Village or State highway access permits, State energy certificates, State Fire Marshal approvals, and/or State Act 250 permits.

The Zoning Administrator may issue a zoning permit conditional upon the filing of any other approvals, permits, or certifications and may require such filing prior to the start of construction or issuing a certificate of completion as appropriate.

State wastewater disposal and potable water permits must be obtained prior to recording a final subdivision plan in the North Bennington Land Records and/or prior to the Zoning Administrator issuing a zoning permit.

4.1.8 Prohibited Uses

Unless as provided herein, any use not specifically permitted by these regulations shall be deemed to be prohibited.

4.2 Zoning Permit Procedures

4.2.1 Zoning Permit Not Required

The following uses do not require a permit provided that any new or expanded use or structure is within the standards so provided:

1. Outdoor fireplaces meeting required setbacks.
2. Public utility power generating plants and transmission facilities regulated under Title 30 V.S.A., Section 248, as supplemented in these regulations.
3. Pools that are not in-ground, are taken down each year for winter storage, and meet required setbacks.
4. Repair and maintenance of an owner's permitted property or driveways.
5. Lampposts or other minor yard decorations that are not in the Village right of way.
6. Mailboxes conforming to the requirements of the US Postal Service are permitted.
7. Walkways or handrails to assist the handicapped that meet the required setbacks.
8. Swing sets, jungle gyms, treehouses, and other similar children's play equipment not connected with commercial property.
9. Garbage dumpsters and their enclosures, which meet the required setbacks.
10. Required Agricultural Practices, including the construction of farm structures, as defined by the Secretary of Agriculture, Food, and Markets.
11. Forestry operations and Accepted Silvicultural Practices, as defined by the Commissioner of Forests, Parks, and Recreation.
12. Ponds of a capacity of less than 1,000 gallons.
13. Hot tubs

4.2.2 Zoning Permit Required

All the following development activities require a zoning permit issued by the Zoning Administrator unless they are specifically exempted in Section 4.2.1:

1. Constructing, demolishing, reconstructing, converting, structurally altering, relocating, or enlarging any building or structure.
2. Mining, excavating, filling, or grading land.
3. Commencing, changing, or extending the use of land or a structure.
4. Subdividing of land.

The Zoning Administrator may issue a zoning permit for a temporary accessory structure for the storage of personal residential belongings and/or building materials issued in conjunction with a zoning permit for a principal structure on a property. Once a certificate of completion is issued for the principal structure the temporary accessory structure shall be removed from the property or the property owner shall apply for and be granted an accessory structure permit. If the zoning permit for the principal structure expires, the temporary accessory structure shall be removed from the property immediately following expiration of the permit.

4.2.3 Applying for a Building Permit

Prior to applying for a zoning permit or related development approval, an applicant is encouraged to meet with the Zoning Administrator for a preliminary review of the proposal and a discussion of the applicable provisions of these regulations, permitting requirements, application materials, fees, and review procedures.

The Zoning Administrator will assist in determining whether the proposed land development will require a zoning permit or any other type of development approval and will provide applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s). See www.villagenorthbennington.org for forms and fee schedule.

The Zoning Administrator will notify the prospective applicant of any fees or other charges that may apply to the proposed land development.

The Zoning Administrator will direct the applicant to the State energy standards for residential or commercial buildings, as applicable.

To apply for a zoning permit or related development approval, the applicant must submit the completed form(s), supporting materials, and all applicable fees to the Zoning Administrator. It is the applicant's responsibility to provide the information and materials necessary to demonstrate their project's compliance with all applicable standards of these regulations. The Zoning Administrator may request in addition to dimensioned site plans supporting information including but limited to determinations by any applicable regulatory authority, material specifications, exterior elevations, landscape plans, exterior lighting submittals, erosion control plans, site wastewater treatment plans, surface water run-off mitigation plans, roadway sections, and grading plans.

The Zoning Administrator must determine whether the application is sufficiently complete to approve, deny, or refer after the applicant submits it. The Zoning Administrator shall inform the applicant of his/her determination in writing. If the application is incomplete, the Zoning Administrator must inform the applicant of what additional information may be required.

The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board. See subsection 4.3.2.

4.2.4 Permits Applied for During Bylaw Amendment Period

If a public notice for a first public hearing pursuant to Title 24 V.S.A., Chapter 117, Section 4442(a) is issued by the Village Trustees with respect to amendment of these regulations, the Zoning Administrator, for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed amendment and applicable existing bylaws and ordinances. If the new amendment has not been adopted by the conclusion of the 150-day period or if it is rejected, the permit shall be reviewed under existing bylaws and ordinances. An application that has been denied under a proposed amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing bylaws and ordinances, upon request of the applicant.

4.2.5 Changes in Use

Changes in Use may be approved administratively or may be referred to the Development Review Board at the discretion of the Zoning Administrator for the conversion or change in use of land, existing buildings, or other structures to another use is subject to the provisions of these regulations as follows:

1. The proposed use shall be subject to all the requirements of these regulations pertaining to such use, including but not limited to district, access, and/or parking requirements, as well as any other applicable municipal, state, or federal regulations currently in effect.

2. An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure meets the lot size, setback, parking, and other requirements applicable to the proposed use.

3. Changes or conversions involving nonconforming uses and/or noncomplying structures are also subject to and will be reviewed under Section 4.2.6.

4.2.6 Noncomplying Structures and Nonconforming Uses

1. Noncomplying Structures: Any structure lawfully in existence as of the effective date of these regulations, which is not in compliance with the provisions of these regulations regarding lot size, density, height, setbacks, or other dimensional requirements for the district in which it is located, or any other requirement of these regulations, shall be considered a noncomplying structure. A noncomplying structure may be continued indefinitely, but shall be subject to the following provisions:

a) A noncomplying structure may undergo normal maintenance and repair without a permit provided that such maintenance and repair does not result in an enlargement or alteration that would increase the degree of noncompliance, except in accordance with subsection (4).

b) A noncomplying structure shall not be moved, enlarged, or substantially altered unless the relocation, enlargement, or alteration complies with all the regulations, including use regulations, for the district in which it is located.

c) A noncomplying structure may be repaired, restored, or reconstructed after damage from any cause, provided that the repair, restoration, or reconstruction occurs within one year after such damage occurred and does not increase the degree of noncompliance which existed prior to the damage.

d) Nothing in these regulations shall prohibit the projection of not more than three (3) feet into the required yard or setback areas of pilaster, columns, belt courses, sills, cornices, or other similar architectural features, nor the planting or landscaping of such open spaces.

2. Nonconforming Uses: Any use of a structure or land lawfully in existence as of the effective date of these regulations, which does not conform to the uses allowed for the zoning district in which it is located, shall be considered a nonconforming use. Nonconforming uses may be continued indefinitely, but are subject to the following provisions:

a) No nonconforming use may be changed, except to a conforming use.

b) No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.

c) No nonconforming use, which has been abandoned for six months, shall be resumed thereafter. No nonconforming use, which has been discontinued for twelve months, shall be resumed thereafter, unless within twelve months after discontinuance of the nonconforming use, the Development Review Board grants an extension of the tie within which the use may be resumed. The Development Review Board may grant up to a 12-month extension of the time within which a nonconforming use may be resumed, if the Board finds that all the following are true:

i. The property has been and continues to be actively marketed for sale or lease;
ii. The property is being regularly maintained and is in good condition; and
iii. There is a reasonable likelihood that the nonconforming use will be resumed.

3. The Board may grant additional extensions of the time within which a nonconforming use may be resumed (in up to 12-month increments), provided the criteria set forth in this subsection are met for each such extension.

4. No nonconforming use shall be extended or expanded, except with the approval of the Development Review Board, and the Board finds that such extension or expansion will have no

adverse effect upon the public health, safety, convenience, and upon property values in the vicinity. In addition, any expansion or extension must meet the most restrictive standards and requirements for those districts in which such use is an allowed use. In no event shall a nonconforming use be expanded beyond the boundaries of the lot on which the nonconforming use originated.

5. No new nonconforming use shall be created under the variance provisions or any other provision of these regulations.

4.2.7 Reviewing a Zoning Application

Once the Zoning Administrator determines that an application is complete, the Zoning Administrator must act within 30 days to approve the application, deny it, or refer it to the Development Review Board for a hearing. If the Zoning Administrator must notify a state agency before he/she may issue the zoning permit, the 30 days will not commence until the time allowed for the State agency to comment has elapsed.

If the Zoning Administrator does not act on a complete application within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period will result in a "deemed approval" of the application.

The Zoning Administrator must not approve an application and issue a zoning permit that does not meet all the applicable standards and requirements of these regulations. In particular, the Zoning Administrator must not approve an application and issue a zoning permit if:

1. The land use or development requires the approval of the Development Review Board or Village Trustees, and the applicant has not received such approval;
2. The land use or development is proposed on a lot that has not been lawfully subdivided;
3. A copy of the State wastewater and water supply permit has not been filed with the Village; or
4. A copy of the State Fire Marshal's plan approval, if applicable, has not been filed with the Village.

4.2.8 Acting on a Zoning Permit

The Zoning Administrator must approve, refer, or deny applications for a zoning permit in writing and specifically provide the following information:

1. When approving an application, the Zoning Administrator must inform the applicant that the applicant must post a notice of the zoning permit (to be provided by the Zoning Administrator) in a visible location on the subject property no more than 10 feet from a

public right of way throughout the 15-day appeal period and that the applicant must not commence the land use or development until the appeal period has ended.

2. When denying an application, the Zoning Administrator must inform the applicant that the applicant may appeal the denial to the Development Review Board within 15 days of the date of the decision and must direct the applicant to the section of these regulations which explains the appeal process.

The Zoning Administrator may issue a zoning permit with conditions as necessary to ensure compliance with these regulations.

After approving an application for a zoning permit, the Zoning Administrator must:

1. Deliver a copy of the zoning permit to the Listers and post a copy of the zoning permit at the Village Office, the North Bennington Post Office, and the Village of North Bennington website within 3 days after issuing it. The zoning permit must remain posted and available for public review during regular business hours for a period of 15 days from the date of issuance.
2. Deliver an original, signed copy of the zoning permit or memorandum of municipal action to the Village Clerk for recording within 30 days after closing the permit or issuing the municipal action. The Zoning Administrator must also file a copy of the zoning permit as part of his/her records in the Village Office..
3. Send a copy of the zoning permit to any interested person who makes a specific request.

4.2.9 Zoning Permit Effect, Expiration and Extension

Once the Zoning Administrator issues a zoning permit, there is a 15-day period during which an interested person, as defined by Title 24, Chapter 117, Section 4465, may appeal the zoning permit as described in these regulations. The zoning permit does not take effect and the applicant must not commence the permitted land use or development until the appeal period ends. If an appeal is properly filed during the appeal period, the zoning permit does not take effect, and the applicant must not commence the land use or development until the appeal is decided.

The applicant must post a notice on the property within view from the public right-of-way nearest to the proposed development for 15 days after the Zoning Administrator issues a zoning permit. The Zoning Administrator may provide a form for the landowner to post. The applicant is responsible for posting the notice and ensuring that it remains posted throughout the 15-day appeal period.

A zoning permit and any associated Development Review Board approval expires 2 years from the date the zoning permit takes effect unless:

1. The Development Review Board specifies otherwise as a condition of approval;
2. The applicant commences any use and/or substantially completes any construction authorized by the zoning permit prior to its expiration; or
3. The applicant receives an extension from the Zoning Administrator prior to the zoning permit's expiration. The Zoning Administrator may grant not more than 2 one-year extensions upon finding good cause for the delay and that any improvements completed to date, as witnessed by inspection, conform to the zoning permit requirements and these regulations.
4. The zoning permit is for a major or minor subdivision or planned unit development. The duration of permits for subdivisions and planned unit developments is three years from the date of approval.

If a zoning permit expires before the applicant commences the use and/or substantially completes the construction authorized by the zoning permit, the applicant must apply for a new zoning permit and any other associated development approvals under these regulations.

4.2.10 Inspection During Construction

As a condition of approval, the Development Review Board or Zoning Administrator may require one or more inspections during construction.

Any structure that will be located within 10 feet of a setback must have the location of its footings or foundation flagged and inspected by the Zoning Administrator prior to being poured or placed.

When an inspection is required, the applicant must notify the Zoning Administrator when the development is ready for inspection.

The Zoning Administrator must conduct the inspection promptly and in all cases within 10 days or the required inspection will be waived.

4.2.11 Zoning Permit Revocations

If an applicant omitted or misstated a material fact on an application or at a hearing, the Zoning Administrator may deny a permit, cancel a hearing, or revoke a zoning permit that was issued.

The Zoning Administrator may revoke a permit due to cause, including but not limited to a failure to construct a project per the approved permit where such deviation may have impacted the approval of the permit, failure to construct a project per permit conditions imposed by the Development Review Board, construction of a project in violation of an order of a court with

jurisdiction authority, and failure to pay fees, fines, bonds, or sureties as established by the Village of North Bennington Trustees.

4.2.12 Certificate of Completion

A Certificate of Completion is required for all permits prior to use. The Zoning Administrator must act on a complete application for a certificate of completion promptly and in all cases within 30 days of receipt. The Zoning Administrator may inspect the subject property and consult with other Village departments or State agencies as necessary to observe the state of completion.

The Zoning Administrator must issue a certificate of completion for all permits prior to use. A certificate of completion is required before any approved dwelling or principal structure is occupied certifying that:

1. The applicant has affirmed, and the Zoning Administrator finds no evidence to the contrary, that the structure meets the standards of these regulations, the approved plans, conditions of approval, and any other applicable regulations.

2. The applicant has affirmed that the structure meets current State energy codes. The applicant must file a State Residential Building Energy Standards Certificate (RBES) in the North Bennington Land Records, if one is required under State law. State law requires building energy standards certificates are recorded for all new construction (commercial, residential, additions).

3. A copy of the State Fire Marshal's approved inspection, if applicable, has been filed with the Zoning Administrator.

The Zoning Administrator must only issue a certificate of completion upon observation that:

1. The fully completed land development appears to conform to the requirements of the zoning permit and filed plans, any associated approvals and development conditions, and the applicable provisions of these regulations.

2. All infrastructure connections appear to be fully complete and conform to zoning permit requirements and filed plans, any associated approvals and development conditions, and the applicable provisions of these regulations.

3. The applicant has filed all required documents with the Village including, but not limited to, as-built drawings, floodplain elevation certificate, floodproofing certificate, energy certificate, wastewater permit, access permit, or stormwater permit.

The Zoning Administrator may issue a temporary certificate of completion that conditions use or occupancy on full completion of all required improvements when factors beyond the applicant's control (such as weather) have prevented full completion of zoning permit

requirements that are not essential to safe occupancy of the structure (such as final driveway surfacing or installation of landscaping). The temporary certificate of completion shall terminate when the permit expires. An applicant may only receive a single temporary certificate of completion and must obtain a permanent certificate of completion prior to the expiration of the temporary certificate. Failure to obtain a permanent certificate of completion may result in an order to terminate the use of the structure or a fine in an amount determined by the Village Trustees.

The Zoning Administrator must approve or deny applications for certificate of completion in writing. When denying an application, the Zoning Administrator must:

1. State the reasons for the denial in writing; and
2. Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision and must direct the applicant to the section of these regulations that explains the appeal process.

If the Zoning Administrator denies the certificate of completion, the applicant may re-apply after remedying any conditions identified as the reason for the denial and prior to the expiration of the zoning permit.

If the Zoning Administrator denies the certificate of completion and finds a violation of these regulations, he/she must commence appropriate enforcement action.

If the Zoning Administrator does not act on a complete application for a certificate of completion within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.

4.2.13 Administrative Amendments

An applicant may request in writing that the Zoning Administrator amend a zoning permit or a site plan or subdivision plan approved by the Development Review Board prior to the expiration of the zoning permit.

The Zoning Administrator must only approve an amendment to a zoning permit or approved subdivision plan or site plan upon finding that the proposed amendment conforms to all applicable provisions of these regulations and is not a material change. A material change is a change in the planned use or development of land or a structure that may have affected the decision made or any conditions placed on the zoning permit if it had been included in the plans as approved.

The Zoning Administrator may refer any request for an amendment to the Development Review Board.

Immediately upon approving an amendment to a plan approved by the Development Review Board, the Zoning Administrator must inform the Development Review Board and send written notification of his/her action to abutting landowners.

The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board.

4.3 Development Review Board Procedures

4.3.1 Site Plan and Conditional Use Reviews

Applicability. The Zoning Administrator must not issue a zoning permit for any land use or development listed in these regulations as requiring a site plan review or conditional use review until the Development Review Board reviews and approves the land use or development in accordance with this section. The Development Review Board may request in addition to dimensioned site plans supporting information including but limited to determinations by any applicable regulatory authority, material specifications, exterior elevations, landscape plans, exterior lighting submittals, erosion control plans, site wastewater treatment plans, surface water run-off mitigation plans, roadway sections, and grading plans.

Application. The applicant must file a complete application with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the information necessary to demonstrate conformance with these regulations before referring it to the Development Review Board. A hearing notice shall be provided within 120 days of an application being deemed complete.

Notice and Hearing. The hearing must be warned.

Review Criteria. Before approving a site plan or conditional use application, the Development Review Board must find that it meets all the applicable criteria of the these regulations with a specific, but not exclusive, focus on Section 7 Project Review Criteria.

A decision rendered by the Development Review Board for a housing development or the housing portion of a mixed-use development shall not:

(i) require a larger lot size than the minimum otherwise allowed in the district;

(ii) require more parking spaces than the minimum otherwise allowed in the district and in section 24 VSA 4414;

(iii) limit the building size to less than that otherwise allowed in the district, including reducing the building footprint or height;

(iv) limit the density of dwelling units to below that otherwise allowed in the district; and

(v) otherwise disallow a development to abide by the minimum or maximum applicable municipal standards.

However, a decision may require adjustments to the applicable municipal standards listed if the Development Review Board or Zoning Administrator issues a written finding stating:

(i) why the modification is necessary to comply with a prerequisite State or federal permit, municipal permit, or a nondiscretionary standard in the Village bylaws or ordinances, including requirements related to wetlands, setbacks, and flood hazard areas and river corridors; and

(ii) how the identified restrictions do not result in an unequal treatment of housing or an unreasonable exclusion of housing development otherwise allowed by the bylaws.

Decision. The Development Review Board must issue a written decision, with findings of fact, within 45 days after closing the hearing on a site plan or conditional use application. (See Section 4.4 and 4.5 for Subdivision and Planned Unit Development decision durations.) As part of the decision, the Development Review Board may establish conditions of approval, which will be incorporated into the zoning permit, as deemed necessary to ensure conformance with these regulations.

Permit Expiration & Extension. A site plan, a conditional use permit, and any associated Development Review Board approval expires from 1 to 3 years from the date the decision was issued based on the scale of the project as determined by the Development Review Board unless:

1. The Development Review Board specifies otherwise as a condition of approval;
2. The applicant commences the use and/or substantially completes any construction authorized by a zoning permit prior to the conditional use permit's expiration; or
3. The applicant receives an extension from the Zoning Administrator prior to the permit's expiration. The Zoning Administrator may grant not more than two one-year extensions upon finding both good cause for the delay and any improvements completed to date conform to the zoning permit requirements and these regulations, as witnessed by inspection.

4.3.2 Appealing a Decision or Other Action by the Zoning Administrator

Applicability. An interested person may appeal any act or decision of the Zoning Administrator to the Development Review Board.

Application. To appeal, an interested person must file a notice of appeal and any applicable fees with the Zoning Administrator within 15 days of the date of the action or decision. A notice of appeal must be in writing and must include all the following information:

1. The name and address of the appellant (person filing the appeal);

2. A copy of the Zoning Administrator's decision;
3. A brief description of the property involved;
4. A reference to the section(s) of these regulations that the appellant alleges the Zoning Administrator has not properly followed or applied; and
5. A statement of the remedy the appellant is requesting and why the appellant believes the requested remedy to be appropriate under the circumstances.

Stay of Enforcement. A notice of appeal may also include a request for a stay of enforcement. To request a stay of enforcement, the appellant must include a sworn statement with the notice of appeal that irremediable damage will directly result if the Development Review Board does not grant the stay. A request for a stay will cease all project activity except securing the site and materials from degradation. Erosion control must be provided and maintained. Environmental quality (e.g. water or air quality) shall not be negatively impacted. A stay shall not be granted if hazardous conditions require remediation.

Notice and Hearing. The Development Review Board must either:

1. Hold a public hearing on the appeal within 60 days of the Zoning Administrator receiving a complete notice of appeal. The hearing must be warned.
2. Reject the appeal without a hearing and render a decision within 10 days after the Zoning Administrator receives a complete notice of appeal, an action required if the Development Review Board determines that it has already decided the issues in an earlier appeal or proceeding.

Decision. The Development Review Board must issue a written decision, with findings of fact, within 45 days after closing the hearing on the appeal. As part of the decision, the Development Review Board may establish conditions of approval, which will be incorporated into any zoning permit, as deemed necessary to ensure conformance with these regulations.

Exclusive Remedy. An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action taken or decision made by the Zoning Administrator. If no interested person appeals the Zoning Administrator's action or decision to the Development Review Board within 15 days, all interested persons will be bound by that action or decision and will not be able to contest it later.

4.3.3 Waivers and Variances

Purpose. This section is intended to provide a mechanism for adjusting a requirement of these regulations when it is limiting the reasonable use or development of a property. Except as specifically provided herein, no DRB may amend, alter, invalidate, or affect any development plan or bylaw or the implementation or enforcement thereof, or allow any use not permitted by any zoning regulations or other bylaw.

4.3.3.1 Variances

Application. The applicant must file a complete development review application and a written request for a variance with the Zoning Administrator that includes all the following:

1. A brief description of the subject property and project.
2. A reference to specific dimensional standard(s) of these regulations the applicant is proposing to modify.
3. The specific modification(s) that the applicant is requesting.
4. A response to each of the criteria that the Development Review Board will use to decide whether to approve the variance.

The Zoning Administrator shall set a date and place for a public hearing of a request for a variance under this ordinance, which shall be within sixty (60) days of a complete filing with the zoning administrator. The Zoning Administrator shall give public notice of the hearing. The burden of presenting evidence sufficient to allow the DRB to reach the conclusions set forth in this Part, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance. In rendering a decision in favor of a variance, the DRB may attach such conditions as it may consider necessary and appropriate under the circumstances to implement the purposes of this ordinance and the municipal development plan, and to ensure that the property to which the variance applies will be as compatible as practicable with the surrounding properties.

A variance may be issued for an indefinite duration or only for a specified duration. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirements of this chapter.

Prohibited. The Development Review Board must not approve a variance to allow a prohibited use or the subdivision of a lot that does not conform to the applicable zoning district standards (ex: minimum lot size).

Notice. The hearing must be warned. Adjoining property owners shall be sent notice of the meeting at least 14 days prior to said meeting.

Review Criteria. Before granting a variance, the Development Review Board must find that it meets all the applicable criteria in Table 4.3.3.1. There are specific variance criteria that apply to renewable energy structures and to development within the Flood Hazard Overlay Zoning District. For all other variance requests, the general variance criteria apply.

Decision. The Development Review Board must issue a written decision, with findings of fact, within 45 days after closing the hearing on a variance application. As part of the decision, the

Development Review Board may establish conditions of approval, which will be incorporated into the zoning permit, as deemed necessary to ensure conformance with these regulations.

Variances in the Flood Hazard Multi-District Area. If a variance will be approved for development within the Flood Hazard Area, the written decision must State that "*Building a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums*."

4.3.3.2 Waivers

Applicability. The Development Review Board may approve:

1. Waivers that authorize minor adjustments to the dimensional standards of these regulations, except that waivers may not be approved within the Flood Hazard Overlay Zoning District. A waiver under this section may be granted by the Development Review Board to:
2. Allow for reasonable development of pre-existing nonconforming lots.
3. Allow for reasonable additions or improvements to pre-existing nonconforming structures.
4. Avoid significant natural resources and/or unique natural feature constraints.
5. Comply with federal or state public health, fire, safety, access, and disability standards.
6. Allow for the siting of renewable energy structures.

Application. The applicant must file a complete development review application and a written request for a waiver with the Zoning Administrator that includes all the following:

1. A brief description of the subject property and project.
2. A reference to specific dimensional standard(s) of these regulations the applicant is proposing to modify.
3. The specific modification(s) that the applicant is requesting.
4. A response to each of the criteria that the Development Review Board will use to decide whether to approve the waiver.

The Zoning Administrator shall set a date and place for a public hearing of a request for a waiver under this ordinance, which shall be within sixty (60) days of a complete filing with the zoning administrator. The Zoning Administrator shall give public notice of the hearing. The burden of presenting evidence sufficient to allow the DRB to reach the conclusions set forth in this Part, as well as the burden of persuasion on those issues, remains with the applicant seeking the waiver. In rendering a decision in favor of a waiver, the DRB may attach such conditions as it may consider necessary and appropriate under the circumstances to implement the purposes of this ordinance and the municipal development plan, and to ensure that the property to which the waiver applies will be as compatible as practicable with the surrounding properties.

A waiver may be issued for an indefinite duration or only for a specified duration. The nature of the waiver and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the waiver and refer to the written record of the waiver for further information. All such conditions are enforceable in the same manner as any other applicable requirements of this chapter.

Prohibited. The Development Review Board must not approve a waiver to allow a prohibited use or the subdivision of a lot that does not conform to the applicable zoning district standards (ex: minimum lot size).

Notice. The hearing must be warned. Adjoining property owners shall be sent notice of the meeting at least 14 days prior to said meeting.

Review Criteria. Before granting a waiver, the Development Review Board must find that it meets all the applicable criteria in Table 4.3.3.1.

Decision. The Development Review Board must issue a written decision, with findings of fact, within 45 days after closing the hearing on a waiver application. As part of the decision, the Development Review Board may establish conditions of approval, which will be incorporated into the zoning permit, as deemed necessary to ensure conformance with these regulations.

Table 4.3.3.1

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1 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. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located, have created an unnecessary hardship for the applicant.	–	✓	–	✓
2 Those physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property.	–	✓	–	✓
3 There is no reasonable alternative for siting the structure, addition or improvement in conformance with the regulations and the new or renovated part of the structure will not extend beyond the existing nonconforming structure, unless necessary to accomplish the intended goal (an expanded, improved entry deck, for example).	✓	–	–	–
4 The applicant has not created unnecessary hardship.	–	✓	✓	✓
5 The applicant is proposing the least deviation possible from these regulations that will afford relief.	✓	✓	✓	✓
6 The land development will not alter the existing or planned character of the area or district in which the property is located.	✓	✓	✓	✓
7 The land development will not substantially or permanently impair the lawful use or development of adjacent property.	✓	✓	✓	✓

8 The land development will not be detrimental to public health, safety, disability standards, or welfare.	✓	✓	✓	✓
9 The land development is not contrary to the objectives and policies of the North Bennington Village Plan, or the intent of the regulations.	✓	–	–	–
10 Any potential adverse impacts resulting from reduced dimensional requirements on adjoining properties, surface waters or wetlands shall be mitigated through site design, landscaping and screening, or other accepted mitigation measures.	✓	–	–	–
11 It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	—	–	✓	✓
12 The land development meets all applicable federal and State rules for compliance with the National Flood Insurance Program and the provisions of Section 8 of these regulations.	—	–	–	✓
13 The land development will not reduce access to renewable energy resources on adjacent property.	—	—	✓	✓

4.3.5 Combined Review

When proposed development requires more than one type of review, the Development Review Board may warn and hold a single hearing for the purpose of reviewing and acting on all the applications concurrently. The Zoning Administrator may assist applicants in preparing and submitting coordinated applications to facilitate combined review.

The notice warning the hearing must include a statement that the hearing will be a combined review of the proposed development and list each type of review the Development Review Board will conduct.

All hearing and decision requirements, and all deadlines applicable to each review process will apply. The Development Review Board may issue separate written decisions for each review conducted as part of the combined hearing, but the decisions shall be coordinated where appropriate.

4.3.6 Modifications of Approved Plans

A**pplicability.** The Development Review Board must review any request to amend an approved plan that the Zoning Administrator cannot approve under an Administrative Amendment.

Notice. The hearing must be warned. Adjoining property owners shall be sent notice of the meeting at least 10 days prior to said meeting.

Application. The process for applying for an amendment will be the same as for the original approval.

Review and Decision. The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the plan affected by the proposed amendment.

4.4 Subdivision Procedures

4.4.1 Applicability

Combined subdivision and planned unit development applications are acceptable. For combined applications the procedures of Sections 4.4 and 4.5 both apply and shall proceed in tandem.

Except as specifically authorized in Section 4.4.2, a landowner must not:

1. Subdivide land without first recording a subdivision plat in the Bennington Town Land Records in full conformance with Section 4;
2. Subdivide land through the use of any legal description other than by reference to a subdivision plat recorded in the Bennington Town Land Records in full conformance with this Section; or
3. Sell or transfer ownership of any lot by reference to a subdivision plat without first recording a subdivision plat in the Bennington Town Land Records in full conformance with this Section.

A landowner may convey a right-of-way or easement, or lease land without first recording a subdivision plat in the Bennington Town Land Records in full conformance with this Section.

The Zoning Administrator must not issue a zoning permit for development on a lot created by subdivision unless the landowner has recorded a subdivision plat in the Bennington Town Land Records in full conformance with this Section.

4.4.2 Boundary Line Adjustments, Aggregation of Lots, and Exceptions

Boundary Line Adjustments and Aggregation of Lots. The Zoning Administrator may approve the realignment, relocation, or elimination of a boundary line between adjoining parcels provided that the proposed change:

1. Will not result in an increase in the number of lots;
2. Will not result in a nonconformity, but it may involve an existing nonconformity provided that the degree of nonconformity is not increased; and
3. Will not violate any conditions of a prior zoning permit or development approval.

The applicant must submit a complete application and subdivision plan to the Zoning Administrator. Once the Zoning Administrator determines that the application is complete, he/she must act within 30 days to approve the application, deny it, or refer it to the Development Review Board. A public hearing may not be required if the Zoning Administrator approves the application.

Within 180 days after the Zoning Administrator approves an application, the applicant must record a final subdivision plat in the Bennington Town Land Records and must mark the adjusted boundary line. If the applicant fails to do so within the 180-day period, the Zoning Administrator's approval will be voided.

Exceptions to Subdivision Regulations. All subdivisions that increase the number of lots to three or more on the parcel or parcels shall be referred to the Development Review Board, except as listed below:

1. The division of land from agricultural use to exclusively agricultural use. The land shall be classified as agricultural as defined by the Secretary of Agriculture, Food, and Markets. Any change in the use of the land for anything other than agricultural purposes subjects the parcel to review as a subdivision. Documents are required establishing a written covenant that runs with the land, restricting use of the property to agricultural purposes only. The covenant language shall clarify that it is revocable only by mutual consent of the Village of North Bennington Trustees and the property owner and that prior to officially revoking the covenant, the parcel must be reviewed as a subdivision. The covenant shall be signed by all parties to the gift, sale, or agreement to buy/sell, and the governing body.
2. Land titled by the State of Vermont and land titled by the United States Federal Government.
3. Land conveyed by eminent domain and other court orders.
4. A division of land of any size to provide security for mortgages, reverse mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes. This exemption applies to land that is divided and conveyed to a licensed financial or lending institution to which the mortgage, lien, or trust indenture was given, or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. A transfer

of the divided land, by the owner of the property at the time the land was divided, to any party other than those identified in the preceding sentence subjects the division of land to the requirements of these regulations. Documentation shall be required of the landowner in the form of a notarized letter stating:

a. The landowner will retain title to the entire tract of record until such time as the mortgage exemption parcel may be foreclosed upon;

b. The purpose of the mortgage, lien, or trust indenture is for construction, improvements to the land being divided, or refinancing;

c. The transfer of ownership of the separate mortgage exemption parcel will occur only upon foreclosure;

d. The landowner will not transfer ownership of the remaining tract unless the mortgage exemption parcel has been foreclosed upon or the landowner has submitted a subdivision application and received final plat approval for the subdivision of the mortgage exemption parcel and the remaining portion.

5. Cemetery lots. The lots shall be used exclusively for interring the deceased and for the associated identifying monuments or markers.

Note: Single parcels developed with condominium ownership of land and fee simple ownership of three or more principal structures are exempt from subdivision review but are not exempt from planned unit development regulations. Condominium ownership shall mean the ownership of single or multi-family dwelling units with common elements held jointly by unit owners. All land in a condominium subdivision is jointly held with undivided interest. The unit owners own their individual housing units, and do not uniquely own the land beneath the units or in the remainder of the parcel. A certificate of condominium ownership shall be required. See Section 4.5 of these regulations for Planned Unit Development review procedures.

4.4.3 Pre-Application Review

Purpose. The Pre-Application review meeting provides the applicant with an opportunity to present the Development Review Board with general information regarding the property and the proposed subdivision and to receive comments from the Development Review Board prior to expending time and money on surveying, designing, and engineering.

The applicant is strongly encouraged to schedule a pre-application conference with the Zoning Administrator prior to filing an application for subdivision review to discuss the proposed subdivision, application requirements and review process.

Application. The applicant is strongly encouraged to submit a draft application to the Zoning Administrator. The Zoning Administrator must determine that the application is sufficiently complete before referring it to the Development Review Board.

Referral. The Zoning Administrator may forward the application information to other Village staff, departments, or committees as appropriate prior to the Pre-Application meeting. The Village staff, departments, or committees may submit comments or make recommendations on the proposed subdivision plan to the Development Review Board.

Notice. The meeting must be warned. Adjoining property owners shall be sent notice of the meeting at least 10- days prior to said meeting.

Actions. At or following the meeting, the Development Review Board will:

1. Determine whether the applicant is ready to move forward to the next step of the review process.
2. Classify the subdivision as major or minor. See below.
3. Review any deferred approval lots in accordance with Section 4.4.5.
4. Make recommendations to guide the applicant in preparation of more detailed plans.
5. Supplement, modify, or waive application requirements for preliminary or final plan review, as applicable. The Development Review Board may request any additional application materials deemed necessary to determine compliance with these regulations and may modify or waive application requirements deemed unnecessary to determine compliance with these regulations.

Classification. At or following the pre-application meeting, the Development Review Board will classify the subdivision as either a major or minor subdivision in accordance with the following:

1. **Major Subdivision.** A major subdivision will require a three-step process with separate review and approval of the master plan, preliminary plan, and final plan. The Development Review Board may classify any subdivision as a major subdivision as deemed necessary to ensure conformance with these regulations. Unless it meets the exception requirements of Section 4.4.2, the Development Review Board must classify a subdivision that meets any of the following as a major subdivision:
    a. The parent parcel will be divided into three or more lots (including any remainder of the parent parcel).
    b. The proposed subdivision will be served by a private road, community water supply or wastewater system, or similar common facilities that will be utilized by three or more lots.

c. The applicant will be required to prepare a master plan in accordance with Section 4.4.4.

d. The development will be designed as a planned unit development (PUD) in accordance with Section 12.3 of these regulations.

2. **Minor Subdivision.** A minor subdivision will require a two-step process with review and approval of the master plan and final plan. Any subdivision not classified as a major subdivision is a minor subdivision. Minor subdivisions may be approved administratively without a public hearing or may be referred to the Development Review Board at the discretion of the Zoning Administrator.

Effect. The Zoning Administrator or the Development Review Board will send a letter to the applicant documenting its authorizations, determinations, and recommendations, but those actions will not constitute a formal decision on the subdivision plan and are not subject to an appeal.

The Development Review Board may require a sign 4 feet high by 5 feet wide posted within 10 feet of a public right of way identifying the proposed project's scope, project's name, developer's name, developer's contact information, and the text "The Village of North Bennington Development Review Board meeting dates are posted online: www.villagenorthbennington.org. To comment on this proposed project, please contact the Zoning Administrator at zoning@villagenorthbennington.org"

Timeline. After the Zoning Administrator or the Development Review Board determines that the applicant is ready to move forward, the applicant will have 12 months to file the materials required for the next step of the review process.

4.4.4 Master Plan Review

Purpose. This review is intended to discourage the unplanned incremental subdivision of land by requiring qualifying applicants to prepare an overall plan for the coordinated and coherent development of the entire parent parcel that is consistent with the purposes of these regulations.

Determination. At the Pre-Application Review meeting, the Zoning Administrator (ZA) or the Development Review Board (DRB) will determine whether the applicant will be required to prepare a master plan prior to or concurrent with submitting an application for the next phase of the subdivision approval process.

Applicability. The ZA or DRB may require a master plan as deemed necessary to ensure conformance with these regulations. The ZA or DRB must require a master plan if the parent parcel will be divided into three or more lots (including any remainder of the parent parcel) within a ten-year period.

Application. The applicant must file a complete application for master plan approval with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the required information before referring it to the Development Review Board.

Notice. If a master plan review meeting is required by the Development Review Board, the meeting must be warned. Adjoining property owners shall be sent notice of the meeting at least 15 days prior to said meeting.

Meeting and Presentation. If required by the ZA or DRB, the applicant shall prepare a comprehensive presentation and present to the Development Review Board (and courtesy invitations to the Planning Commission, and the Village Trustees) the proposed subdivision master plan.

Review Process. The ZA or DRB may review and act on a master plan application prior to or concurrent with review of the preliminary subdivision plan. The review process for a master plan will be the same as for a preliminary subdivision plan (See below).

Review Criteria. Before approving a master plan, the ZA or DRB must find that it meets all the following:

1. It shows the full extent of parent parcel, delineating the area(s) currently proposed for subdivision or development and any associated land proposed to be set aside as development-restricted open space land.
2. It demonstrates that the entire parcel can be developed in accordance with the standards of these regulations and results in a coherent and coordinated development.
3. It delineates the areas that may be developed or subdivided in the future and any associated land that would be set aside as development-restricted open space in accordance with the standards of these regulations. In instances in which an applicant proposes development of a portion of a larger parcel, or development of a parcel contiguous to another parcel(s) in common or affiliated ownership, a general indication of the intended use of the remaining (undeveloped) portion of the land shall be submitted for Development Review Board's review.
4. It indicates access and utilities to serve the remaining portion(s) of the parent parcel that may be subdivided or developed in the future in a manner that would extend the currently proposed access, road, driveway and/or utility corridors.
5. It includes a statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations and the standards and criteria which the applicant proposes for the development, including but not limited to standards for the design, bulk and spacing of buildings, and sizes of lots and open spaces.
6. With the application, the landowner/PUD proponent shall submit to the Development Review Board for review and approval a form of declaration of easements and restrictions governing the relationship among lot/building owners and the maintenance of the PUD,

including the creation, if applicable, of a home/lot owners' association to manage the PUD and to establish and collect home/lot owners' dues in an amount necessary to meet the common expenses of the PUD (such as snow removal, maintenance of streets and drainage facilities, and real estate taxes on common elements). Upon approval of the PUD/subdivision plat, the declaration shall be recorded with the Bennington Town Listers with the understanding that it will be enforceable against each lot.

7. It shows that any planned pedestrian paths, recreation amenities, and designated open spaces will be preserved and extended as appropriate in conjunction with any future subdivision or development.

8. It supports the intent of the Village of North Bennington Village Plan.

Decision. The Development Review Board must issue a written decision with findings of fact that address each of the applicable criteria in Section 7 within 45 days after closing the hearing on a major subdivision and 30 days on a minor subdivision application. As part of the decision, the Development Review Board may establish conditions of approval to be incorporated into the next subdivision review as deemed necessary to ensure conformance with these regulations. The written decision must specify:

1. Any specific changes required in the subdivision plan;
2. The issues to be analyzed and addressed in the subdivision application;
3. Whether the subdivision must be phased; and
4. Any modification or waiver of application requirements for the next review. The Development Review Board may request any additional application materials deemed necessary to determine compliance with these regulations and may modify or waive application requirements deemed unnecessary to determine compliance with these regulations.

Effect. Once the Development Review Board approves a master plan, any future subdivision or development must be consistent with that plan. All land shown on the master plan will be subject to the master plan and any conditions of approval irrespective of ownership.

Modification of an Approved Master Plan. An applicant may request that the Development Review Board approve modifications to an approved master plan in accordance with the provisions of Section 4.3.6. The Development Review Board must consider the compatibility of proposed modification with all the land subject to the master plan (not just the portion directly affected) and the purpose of this section to ensure coordinated and coherent land development.

4.4.5 Deferred Approval

Applicability. The Development Review Board may approve the creation of deferred approval lots following Master Plan Review in accordance with the following:

1. A deferred approval lot must be at least the district's minimum lot size and meet lot width to depth ratios, if any, and either have frontage on a public road or a right-of-way at least 45 feet wide.

2. No more than 3 deferred approval lots may be created from a parent parcel in any 10-year period. Deferred approval lots will be counted when determining whether the subdivision is classified as major or minor.

3. A deferred approval lot must also qualify for an exemption from the State requirement for a potable water and wastewater permit. The applicant must provide a letter from the Agency of Natural Resources documenting that the lot is exempt.

Application. The applicant must file a complete application for a deferred approval, either separately or as part of larger subdivision application, with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the required information before referring it to the Development Review Board for pre-application review.

Recording Deed. Within 180 days after the Development Review Board authorizes a deferred approval lot or approves a final subdivision plan for a larger subdivision containing a deferred approval lot, the applicant must record a deed and a plat for the deferred approval lot that includes the following Statement, "*Subdivision approval for this lot under the Village of North Bennington Land Use and Development Regulations has been deferred. Any person who owns this property acknowledges that this lot may not be able to be further developed or improved in accordance with the Village of North Bennington Land Use and Development Regulations, and that the landowner must obtain subdivision approval via a subdivision amendment from the Development Review Board for this lot prior to applying for a zoning permit to further develop or improve it."* If the applicant fails to do so within the 180-day period, the Development Review Board's authorization will be voided.

Approval. Prior to a deferred approval lot being developed or improved, the landowner must obtain final subdivision approval under this chapter and in full conformance with all applicable provisions of these regulations.

4.4.6 Preliminary Review

Purpose. The purpose of preliminary plan review is to examine the proposed subdivision in detail, take public comment on the plan, evaluate the plan's conformance with these regulations, and determine whether modifications or conditions will be necessary to ensure that conformance.

Application. When required, the applicant must file a complete application for preliminary subdivision plan approval with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the required information before referring it to the Development Review Board. If a master plan is required, the applicant must either have received master plan approval prior to filing the preliminary plan or be filing the master plan application for combined review with the preliminary plan.

Referral. The Zoning Administrator may forward the preliminary plan to other Village staff, departments or committees as appropriate prior to the hearing. The Village staff, departments, or committees may submit comments or make recommendations on the preliminary plan to the Development Review Board.

Notice. The hearing must be warned. Adjoining property owners shall be sent notice of the meeting at least 15 days prior to said meeting.

Review Criteria. Before approving a preliminary subdivision plan, the ZA or the Development Review Board must find that it supports meeting all the applicable criteria in Section 7.

Decision. The ZA or the Development Review Board must issue a written decision with findings of fact that address each of the applicable criteria in Section 7 within 45 days after closing the hearing on a preliminary subdivision. As part of the decision, the Development Review Board may establish conditions of approval to be incorporated into the final subdivision plan as deemed necessary to ensure conformance with these regulations. The written decision must specify:

1. Any specific changes required in the final subdivision plan;
2. The issues to be analyzed and addressed in the final subdivision application;
3. Whether the subdivision must be phased; and
4. Any modification or waiver of application requirements for final plan review. The ZA or the Development Review Board may request any additional application materials deemed necessary to determine compliance with these regulations and may modify or waive application requirements deemed unnecessary to determine compliance with these regulations.

Phasing. The Development Review Board may require an applicant to divide a proposed subdivision into multiple phases to be developed at separate times. The Development Review Board may impose conditions on the filing of the final plat for each phase as deemed necessary to assure planned and orderly growth that does not exceed the Village of North Bennington's ability to provide public facilities and services in accordance with the adopted *Village Plan* and the *Capital Budget and Program.*

Timeline. After the Development Review Board approves a preliminary plan, the applicant will have 12 months to submit a final subdivision plan.

4.4.7 Final Plan Review

Purpose. The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations and any applicable master plan, and, for major subdivisions, assure that all conditions imposed on the preliminary plan have been met.

Application. The applicant must file a complete application for final subdivision plan approval with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the required information before referring it to the Development Review Board. If phasing was a condition of preliminary plan approval, the applicant must file separate final plans for each phase within the time periods specified in the preliminary approval decision.

Notice. The hearing must be warned. Adjoining property owners shall be sent notice of the meeting at least 10- days prior to said meeting.

Review Criteria. Before approving a final subdivision plan, the Development Review Board must find that it meets all the applicable criteria in Section 7 of these regulations.

Decision. The Development Review Board must issue a written decision with findings of fact that address each of the criteria in Section 7 within 45 days after closing the hearing on a major final subdivision application and 30 days for a minor application.

Filing Requirements. If the Development Review Board approves the final plan, the applicant will have 180 days to record a final subdivision plat for filing in the Village's land records.

Village Acceptance. The Development Review Board's approval of a final plan will not constitute the Village's acceptance of any street, easement, open space, or other similar features shown on the plan. Action by the Village Trustees is required to accept any street, easement, open space, or other similar feature.

4.4.8 Filing Requirements

If the Development Review Board approves the final plan, the applicant will have 180 days to file a final subdivision plat, including 1 mylar copy and 2 paper copies, for recording in the Bennington Town Land Records. Plats shall be filed after the expiration of the final plat decision appeal period. If the subdivision will be phased, the applicant must record a plat for the first phase within 180 days and for subsequent phases in accordance with any schedule or time period established in the condition of approval. Upon written request by the applicant prior to the expiration of the 180 days, the Zoning Administrator may grant a 90-day extension to the filing deadline if other local or State permits are still pending. A plat recorded after the filing deadline will be considered null and void.

The final subdivision plat must meet all State requirements (see 27 VSA § 1403).

Prior to being recorded in the Bennington Town Land Records, the Chair or Vice Chair of the Development Review Board must sign the final subdivision plat. If a final plat is recorded without that signature, it will be considered null and void.

No one must make any changes, erasures, modifications, or revisions to a final plat after it has been signed except in accordance with Section 4.2.13 or Section 4.3.6. If a modified plat is recorded in violation of this requirement, it will be considered null and void.

Once properly recorded, a final subdivision plat will not expire.

4.4.9 Certificate of Subdivision Completion

The Development Review Board may require, as a condition of a subdivision approval per Section 4.3.5, that a certificate of subdivision completion be obtained to ensure that public and private improvements have been installed in accordance with the conditions of subdivision approval.

A letter from the applicant requesting a certificate of subdivision completion shall be submitted to the Zoning Administrator with as-built plans drawn to scale which show the location of all monuments, utilities, structures, roadways, easements, and other improvements as constructed. In the letter the applicant shall affirm that the documents represent the as-built conditions. The Zoning Administrator shall review the request within 30 days of receipt.

If the Zoning Administrator does not act on the request within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator’s failure to act within the 30-day period will result in a “deemed compliance” of the application.

4.5 Planned Unit Development (PUD) Procedures

4.5.1 Applicability

Combined subdivision and planned unit development applications are acceptable. For combined applications the procedures of Sections 4.4 and 4.5 both apply and shall proceed in tandem.

Planned Unit Developments may entail development of structures on subdivided land or a parcel with single ownership. See Section 12 of these regulations. Nothing in these regulations that is not expressly stated within these regulations shall limit flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking. Note that review procedures differ for Flexible Planned Unit Developments and Cottage Court Developments.

4.5.2 Pre-Application Review

Purpose. The Pre-Application review meeting provides the applicant with an opportunity to present the Development Review Board with general information regarding the property and the proposed PUD and to receive comments from the Development Review Board prior to expending time and money on designing and engineering.

The applicant is strongly encouraged to schedule a pre-application conference with the Zoning Administrator prior to filing an application for PUD review to discuss the proposed development, application requirements and review process.

Application. The applicant is strongly encouraged to submit a draft application to the Zoning Administrator. The Zoning Administrator must determine that the application is sufficient for a preliminary review before referring it to the Development Review Board.

Referral. The Zoning Administrator may forward the application information to other Village staff, departments or committees as appropriate prior to the Pre-Application meeting. The Village staff, departments, or committees may submit comments or make recommendations on the proposed development to the Development Review Board.

Notice. The meeting must be warned. Adjoining property owners shall be sent notice of the meeting at least 15 days prior to said meeting.

Actions. At or following the meeting, the Development Review Board will:

1. Determine whether the applicant is ready to move forward to the next step of the review process.
2. Classify the development as major or minor. See below.
3. Review any deferred development phases in accordance with Section 4.4.5.
4. Make recommendations to guide the applicant in preparation of more detailed plans.

5. Supplement, modify, or waive application requirements for preliminary or final plan review, as applicable. The Development Review Board may request any additional application materials deemed necessary to determine compliance with these regulations and may modify or waive application requirements deemed unnecessary to determine compliance with these regulations.

Classification. At or following the Pre-Application meeting, the Development Review Board will classify the development as either a major or minor in accordance with the following:

1. **Major Development.** A major development will require a three-step process with separate review and approval of a master plan, preliminary plan, and final plan. The Development Review Board may classify any development as a major subdivision as deemed necessary to ensure conformance with these regulations. The Development Review Board must classify a development that meets any of the following as a major development:

    a. Three or more principal structures are proposed, and all the criteria for a Cottage Court Development are not met.

    b. The proposed development will be served by a private road, the community water supply or wastewater system, or similar common facilities that will be utilized by three or more lots or principal structures and all the criteria for a Cottage Court Development are not met.

2. **Minor Development.** A minor development will require a two-step process with a separate review and approval of the master plan and final plan. Any development not classified as a major development is a minor development.

Effect. The Development Review Board will send a letter to the applicant documenting its authorizations, determinations, and recommendations within 45 days in the case of a major development and within 30 days in the case of a minor development. Those actions will not constitute a formal decision on the development and are not subject to an appeal.

The Development Review Board may require a sign 4 feet high by 5 feet wide posted within 10 feet of a public right of way identifying the proposed project's scope, project's name, developer's name, developer's contact information, and the text "The Village of North Bennington Design Review Board meeting dates are posted online: www.villagenorthbennington.org. To comment on this proposed project, please contact the Zoning Administrator at zoning@villagenorthbennington.org"

Timeline. After the Development Review Board determines that the applicant is ready to move forward, the applicant will have 12 months to file the materials required for the next step of the review process.

4.5.3 Master Plan Review for Major and Minor Developments

Purpose. This section is intended to discourage the unplanned incremental development of land by requiring qualifying applicants to prepare an overall plan for coordinated and coherent developments that are consistent with the purposes of these regulations.

Applicability. All PUD applicants will be required to prepare a master plan. The master plan shall include property developments anticipated to occur within a ten-year period.

Application. The applicant must file a complete application for master plan approval with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the required information before referring it to the Development Review Board.

Notice. The meeting must be warned. Adjoining property owners shall be sent notice of the meeting at least 15 days prior to said meeting.

Meeting and Presentation. The applicant shall prepare a comprehensive presentation and present to the Development Review Board (and courtesy invitations to the Planning Commission, and the Village Trustees) the proposed development master plan.

Review Process. For major developments, the Development Review Board may review and act on a master plan application prior to or concurrent with review of the preliminary subdivision plan. The review process for a master plan will be the same as for a preliminary development plan (See below).

Review Criteria. Before approving a master plan, the Development Review Board must find that it diagrams and anticipates conformance with all the following:

1. It shows the full extent of the development and any associated land proposed to be set aside as development-restricted open space land.
2. It diagrams all the proposed structures and site utility infrastructure in sufficient detail to demonstrate the intent to meet the requirements of these regulations as outlined in Section 7.
3. It diagrams planned pedestrian paths, recreation amenities, and designated open spaces intended to be preserved and/or as extended.
4. It diagrams proposed topography, access, roads, driveways, emergency vehicle maneuvering accommodations, ponds, storm water facilities, utility corridors, easements, and other site works in relation to the physical characteristics of the land.
5. It delineates proposed development phasing, and their anticipated relative durations.
6. Any additional information necessary to demonstrate anticipated conformance with the applicable criteria in Section 7.

Decision. The Development Review Board must issue a written decision with findings of fact that address each of the applicable criteria in Section 7 within 45 days after closing the hearing on a

master plan for a major development application and 30 days for a minor development. As part of the decision, the Development Review Board may establish conditions of approval to be incorporated into the development plan for the next stage of review and as deemed necessary to ensure conformance with these regulations. The written decision must specify:

1. Any specific changes required in the development plan for the next stage of review;
2. The issues to be analyzed and addressed in the next development application;
3. Any modification or waiver of application requirements for the next plan review. The Development Review Board may request any additional application materials deemed necessary to determine compliance with these regulations and may modify or waive application requirements deemed unnecessary to determine compliance with these regulations.

Effect. Once the Development Review Board approves a master plan, any future development must be consistent with that plan. All land of the development will be subject to the master plan and any conditions of approval, irrespective of ownership.

Modification of an Approved Master Plan. An applicant may request that the Development Review Board approve modifications to an approved master plan in accordance with the provisions of Section 4.3.6. The Development Review Board must consider the compatibility of proposed modification with all the land subject to the master plan (not just the portion directly affected), and the purpose of this section to ensure coordinated and coherent land development.

4.5.4 Preliminary Review for Major Developments

Purpose. The purpose of preliminary plan review is to examine the proposed major development in detail, take public comment on the plan, evaluate the plan's conformance with these regulations, and determine whether modifications or conditions will be necessary to ensure that conformance.

Application. When required, the applicant must file a complete application for preliminary development approval with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the required information before referring it to the Development Review Board. For major developments the applicant must either have received master plan approval prior to filing the preliminary plan or be filing the master plan application for combined review with the preliminary plan.

Referral. The Zoning Administrator may forward the preliminary plan to other Village staff, departments, or committees as appropriate prior to the hearing. The Village staff, departments, or committees may submit comments or make recommendations on the preliminary plan to the Development Review Board.

Notice. The hearing must be warned. Adjoining property owners shall be sent notice of the meeting at least 15 days prior to said meeting.

Review Criteria. Before approving a preliminary subdivision plan, the Development Review Board must find that it anticipates compliance all the applicable criteria in Section 7.

Decision. The Development Review Board must issue a written decision with findings of fact that address each of the applicable criteria in Section7 within 45 days after closing the hearing on a preliminary development application. As part of the decision, the Development Review Board may establish conditions of approval to be incorporated into the final development plan as deemed necessary to ensure conformance with these regulations. The written decision must specify:

1. Any specific changes required in the final development plan;
2. The issues to be analyzed and addressed in the final development application;
3. Any modification or waiver of application requirements for final plan review. The Development Review Board may request any additional application materials deemed necessary to determine compliance with these regulations and may modify or waive application requirements deemed unnecessary to determine compliance with these regulations.

Phasing. The Development Review Board may require an applicant to divide a proposed development into multiple phases to be developed at separate times. The Development Review Board may impose conditions on the filing for each phase as deemed necessary to assure planned and orderly growth that does not exceed the Village of North Bennington's ability to provide public facilities and services in accordance with the adopted *Village Plan* and the *Capital Budget and Program.*

Timeline. After the Development Review Board approves a preliminary plan, the applicant will have 12 months to submit a final development plan.

4.5.5 Final Plan Review for Major and Minor Developments

Purpose. The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations, any applicable master plan conditions, and, for major developments, assure that all conditions imposed on the preliminary plan have been addressed.

Application. The applicant must file a complete application for final development approval with the Zoning Administrator. The Zoning Administrator must determine that the application is complete and includes all the required information before referring it to the Development Review Board. If phasing was a condition of preliminary plan approval, the applicant must file separate final plans for each phase within the time periods specified in the preliminary approval decision.

With the application, the landowner/PUD proponent shall submit to the Development Review Board for review and approval a form of declaration of easements and restrictions governing the relationship among lot/building owners and the maintenance of the PUD, including the creation, if applicable, of a home/lot owners' association to manage the PUD and to establish and collect

home/lot owners' dues in an amount necessary to meet the common expenses of the PUD (such as snow removal, maintenance of streets and drainage facilities, and real estate taxes on common elements). Upon approval of the PUD/subdivision plat, the declaration shall be recorded with the Bennington Town Listers to be enforceable against each lot.

Notice. The hearing must be warned. Adjoining property owners shall be sent notice of the meeting at least 10 days prior to said meeting.

Review Criteria. Before approving a final development plan, the Development Review Board must find that it meets all the applicable criteria in Section 7.

Decision. The Development Review Board must issue a written decision with findings of fact that address each of the criteria in Section 7 within 45 days after closing the hearing on a major final development application and 30 days for a minor application. If approved, the Zoning Administrator will issue a conditional use permit for the development.

If a conditional use permit for the development is approved, see Section 4.2.8 Acting on an Approved Permit, Section 4.2.9 Zoning Permit Effect, Expiration, and Extension, 4.2.10 Inspection During Construction, and 4.2.11 Zoning Permit Revocation, as well as other regulations pertinent to a conditional use permit. If portions of the development are to be phased, the applicant may be required to provide a surety per Section 4.1.5.

4.5.6 Certificate of Subdivision Compliance

The Development Review Board may require, as a condition of a combined review subdivision and PUD approval per Section 4.3.5, that a certificate of subdivision compliance be obtained to ensure that public and private improvements have been installed in accordance with the conditions of subdivision approval prior to issuing Certificates of Occupancy for any structures.

A letter from the applicant requesting a certificate of subdivision compliance shall be submitted to the Zoning Administrator with as-built plans drawn to scale which show the location of all monuments, utilities, structures, roadways, easements, and other improvements as constructed. The Zoning Administrator shall review the request within 30 days of receipt.

If the Zoning Administrator does not act on the request within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period will result in a "deemed compliance" of the application.

4.6 Notice, Hearing, and Decision Procedures

4.6.1 Warning a Development Review Board Hearing

A public hearing for applications before the Development Review Board must be warned as follows:

1. The date, place, and purpose of the hearing must be placed in North Bennington Post Office, and Village Office and posted on the Village of North Bennington website not less than 15 days before the date of the public hearing.
2. The date, place, and purpose of the hearing must be posted not less than 15 days before the date of the public hearing on the subject property within view of the nearest public right-of-way. The Zoning Administrator may provide the applicant with a form for posting. It is the applicant's responsibility to ensure that the notice remains posted for the entire warning period.
3. Owners of all properties adjoining the subject property (including those across the road) must be notified of the hearing in writing. The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to appeal the Development Review Board's decision. The Zoning Administrator may provide the applicant with notification forms and require that the applicant send the notice by certified mail return receipt requested or hand deliver it. The Zoning Administrator may require the applicant to submit proof of delivery before the hearing.

A defect in the form or substance of the public notice requirements will not invalidate any Development Review Board action or decision when a reasonable effort has been made to provide adequate warning.

4.6.2 Conducting a Development Review Board Hearing

The Development Review Board must conduct public hearings in accord with its adopted rules of procedure. The adopted rules of procedure shall be posted on the Village of North Bennington website.

If the Development Review Board recesses a hearing to a specific date and time, the hearing will not have to be warned again when resumed.

4.6.3 Development Review Board Decisions

The Development Review Board will determine whether the application and exhibits are sufficiently complete to make a determination. Should the application be deemed incomplete, the applicant will be informed by the ZA of the necessary supplementary information required. No new

application fee will be assessed if the supplementary information is received within 45 days of the hearing.

After the Development Review Board closes a hearing, it may go into a deliberative session on the application in accordance with their adopted rules of procedure.

The Development Review Board must make a decision based on the applicable criteria identified within these regulations. The Development Review Board may rely on the application materials; testimony and exhibits submitted during public hearings; inspections or site visits of the property; and any publicly available reports, data, maps, or other information to determine whether an application meets the required criteria.

The Development Review Board may approve an application with any conditions it deems necessary to achieve the purposes of these regulations and the goals of the Village Plan and the Vermont Planning and Development Act, including, but not limited to, specific modifications to the scale, layout and/or design of the project, or restrictions on its operation and/or intensity. Any conditions or limitations must be specifically described in its written decision.

Within the duration of days specified in this Section of closing a hearing or as otherwise stated, the Development Review Board must issue a decision concerning compete applications to approve, approve with conditions, or deny the application. The written decision must include findings of fact that explain how and why the Development Review Board made its decision and any conditions of approval. Copies of the written decision must be sent to the applicant and every interested person who participated in the hearing. Copies of the decision must be filed with the Zoning Administrator and Village Clerk.

Once the Development Review Board issues a decision, there is a 15-day period during which an interested person may appeal the decision as described in Section 4.6.4. The decision does not take effect and the applicant must not commence the permitted land use or development until the appeal period ends. If an appeal is properly filed during the appeal period, the decision does not take effect, and the applicant must not commence the land use or development until the appeal is decided. An appeal shall not include the character of the area affected if the project has a residential component that includes affordable housing.

The Zoning Administrator will issue a zoning permit as applicable following Development Review Board approval. If the approved use or development is not substantially completed before the zoning permit expires, the Development Review Board approval will expire with the zoning permit.

If the approved use or development is substantially completed before the zoning permit expires, the Development Review Board approval will remain in effect unless the use or development is discontinued. Development Review Board approvals and any related conditions run with the land and remain in effect even if property is sold or transferred to another owner.

A final subdivision or the subdivision associated with a planned unit development properly approved by the Development Review Board, signed and recorded in the Bennington Town Land Records will not expire.

4.6.4 Appeals of Development Review Board Decisions

Any interested person, as defined by Title 24 VSA, Chapter 117, Section 4465 and Section 3 Definitions, who participated in a hearing on a matter before the Development Review Board may appeal the Development Review Board's decision to the Environmental Division of the Vermont Superior Court per Title 24 VSA, Chapter 117, Section 4471. The Zoning Administrator shall supply a list of interested persons to the appellant within five working days of receiving the appellant's notice of appeal.

A copy of the notice of appeal must be sent by the appellant to every interested person who participated in the hearing within 15 days of the Development Review Board's decision.

When the Zoning Administrator issues a zoning permit to implement a Development Review Board approval, it is a ministerial action that cannot be appealed under Section 4.3.2.

If the Zoning Administrator has issued a zoning permit based on a Development Review Board approval, the appeal of that Development Review Board decision will be considered an appeal of the zoning permit as well and the applicant must not commence any use or development authorized by the zoning permit until the appeal is resolved as described in Section 4.6.3.

For residential projects, appeals of the Development Review Board's approvals are prohibited if the determination is that a proposed residential development within a designated downtown development district, designated growth center, designated Vermont neighborhood, or designated neighborhood development area seeking conditional use approval will not result in an undue adverse effect on the character of the area affected under subdivision 4414(3) of 24 VSA Chapter 117.

4.7 Enforcement Procedures

4.7.1 Type of Ordinance

These regulations will be considered a civil ordinance within the meaning of 24 VSA Chapter 59.

4.7.2 Fines

The Village Trustees may establish fines for violations of these regulations in accordance with 24 VSA Chapter 117 Section 4451.

4.7.3 Applicability

The commencement or continuation of any land use or development that does not conform with the provisions of these regulations constitutes a violation. Each day that a violation continues constitutes a separate offense.

4.7.4 Action

The Zoning Administrator must undertake appropriate action to enforce the provisions of these regulations by following the procedures outlined in this chapter.

The Zoning Administrator must investigate all complaints regarding violations of these regulations. If the Zoning Administrator determines that a violation has occurred, the Zoning Administrator must commence an enforcement action as follows:

1. The Zoning Administrator may contact the landowner in writing to inform them of the violation and provide an opportunity for an immediate and informal resolution. If the matter is not resolved in a timely manner, the Zoning Administrator must issue a notice of violation.
2. The Zoning Administrator must send the landowner a written notice of violation by certified mail. The notice must:
    a. Describe the violation and include a reference to the specific provisions of these regulations being violated;
    b. Explain that the landowner has an opportunity to cure the violation within 7 days;
    c. List the amount of the fine for the violation and explain that the fine will be imposed for each day the violation continues after the 7-day period for curing the violation elapses; and
    d. Notify the landowner that further enforcement may occur without notice and if the violation is repeated within the next 12 months.

3. If the violation is not cured within the 7-day period, the Zoning Administrator must consult with the Village Trustees to determine how the Village will proceed. With permission of the Village Trustees, the Zoning Administrator may negotiate a resolution to a violation after the opportunity for cure has elapsed. The resolution shall be in writing and Village Trustees, DRB, or the Zoning Administrator shall not have the power as part of the negotiated resolution to permit any land development that is not in conformance with those bylaws and regulations. See 24 V.S.A. Chapter 117 Section 4448. The Village Trustees must formally approve any resolution of a violation that has continued after the 7-day period for curing it has elapsed.

Decisions or actions of the Zoning Administrator in relation to violations may be appealed as per Section 4.3.2 of these regulations.

The Zoning Administrator must deliver a copy of each notice of violation to the Village Clerk for recording. Upon resolution of the violation, the Zoning Administrator will provide a compliance letter for recording.

The Zoning Administrator must enforce any violation of these regulations, a zoning permit, or Development Review Board approval within 15 years from the date the violation first occurred. The Zoning Administrator will not be able to enforce a violation of a zoning permit unless the permit was recorded in the Bennington Town Land Records.

SECTION 5: GENERAL REGULATIONS

5.1 Site and Related Regulations

5.1.1 Grading and Changes in Contours

When changes in the surface elevation of the land, including all private roads and driveways constructed on the property, gravel or paved, may or may not result in a diversion of surface water or other drainage onto the lands of adjacent property owners, a site plan shall be submitted to the Development Review Board for review. The site plan shall be in conformance with Section 7 of these regulations and shall show the area effected, the amount of material to be removed, the runoff pattern, ditches, culverts, and catch basins as needed, and provisions for erosion control. The site plan review shall be held at a public hearing, notice of which shall be forwarded by the applicant or ZA to each owner of each property adjacent to the subject parcel. Drainage shall not be allowed to flow over streets or other rights-of-way. Drainage ways shall not create or add additional water to stagnant pools, nor shall they discharge into any stream or pond in a manner that would adversely impact water quality.

5.1.2 Earth Products Removal

Except as otherwise provided in this subsection, there shall be no removal of earth, sand, gravel, clay, or stone, except as surplus material resulting from a bona fide construction, landscape, or agricultural operation being executed on the parcel. No permanent damage shall be done to the landscape.

A site plan conforming to the requirements of Section 7 of these regulations shall be submitted with any application for such removal of earth products. The Development Review Board shall review any application for removal of earth, sand, gravel, clay, or stone at a public hearing, which shall be subject to the following requirements:

a. The applicant shall submit a plan showing the existing grades in the area from which the material is to be removed, together with the finished grades at the conclusion of the operation.

b. The operator shall provide for proper drainage of the area during and after completion of the work, and no bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance, except in ledge rock. No removal shall take place within 20 feet of a property line, except where the grade from a property line rises toward the lot where removal is to take place. On sites with that existing condition, material within 20 feet of the property line and lying above the grade at the property line may be removed.

c. At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal takes place shall be covered with not less than 4 inches of topsoil (not fill dirt) and seeded with a suitable cover crop, except that portion where ledge is exposed.

d. If the extractions are wholly or partly from a stream bed, it shall be carried on in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section there shall be no increase in erosion or flood hazards. If a pond will result from the excavation, see Section 5.1.4. Additionally, a stream alteration permit and any other required approvals shall be obtained from the Vermont Department of Environmental Conservation.

e. Existing earth product extractive operations must conform to these regulations from its effective date with respect to any enlargement of the area on which such operations are conducted.

f. In accordance with the provisions of Title 24 V.S.A., Chapter 117, Section 4464(b), a performance bond or other security shall be posted by the applicant with the Treasurer of the Village in an amount determined by the Village Trustees sufficient to guarantee conformity with the provisions of the permit issued hereunder.

5.1.3 Protection of Streams, Watercourses, and Wetlands

Streams and Watercourses

1. No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least one hundred (100) feet from the normal bank of any stream or watercourse except with the approval of the Development Review Board. Land within fifty (50) feet of any stream bank shall not be stripped of natural vegetation and shall remain as an undisturbed natural buffer. The requirements of this section shall not apply to agricultural uses, the normal maintenance of existing lawns, to the minimum amount of land development necessary for the installation or replacement of a residential well or sewage disposal system, or the construction or maintenance of public use pathways approved by the Village. This paragraph does not apply to the shoreline of ponds.
2. Notwithstanding paragraph 1 of this section, any land development which requires a Stream Alteration Permit under Title 10 V.S.A. Chapter 41 or a permit for construction of a dam under Title 10 V.S.A. Chapter 43 may receive a zoning permit from the Zoning Administrator without the approval of the Development Review Board after presentation of evidence that all required State permits have been granted.
3. For all other land development within 100 feet of the normal bank of any stream or watercourse than that specifically excepted in paragraph 1 of this section, application for approval shall be submitted to the Development Review Board with such surveys, maps, and other data as the Board may require in order to reach its decision.

4. Prior to granting such approval, the Development Review Board shall have found that the proposed construction, earth excavation, filling, or grading will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on natural conditions, on fish or wildlife habitat, nor interfere with present or planned storm water drainage system of the Village. The Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites and the Vermont Streambank Conservation Manual shall be used as a guide in meeting this requirement.
5. Regardless of distances specified in this subsection, where conditions for significant adverse effects on natural conditions may be present, the Development Review Board may extend the permit application review period sufficiently to permit State and/or licensed expert review.

Wetlands

Wetlands boundaries are as identified under the most recent edition of the Vermont Wetlands Rules. In addition, and regardless of the State Agency of Natural Resources maps, the Zoning Administrator during the permit application review period may require that a State review of the property is necessary to conclusively determine whether a wetlands is present, its extent, and its buffer area. The permit application review period shall be deemed incomplete until the State review has occurred.

1. No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of at least one hundred (100) feet from the normal limit of a wetland except with the approval of the Development Review Board. Land within fifty (50) feet of any stream bank shall not be stripped of natural vegetation and shall remain as an undisturbed natural buffer. The requirements of this section shall not apply to agricultural uses, the normal maintenance of existing lawns, to the minimum amount of land development necessary for the installation or replacement of a residential well or sewage disposal system, or the construction or maintenance of public use pathways approved by the Village.
2. For all land development within 100 feet of the normal limit of a wetlands unless specifically excepted in paragraph 1 of this section, application for approval shall be submitted to the Development Review Board with such surveys, maps, and other data as the Board may require in order to reach its decision.
3. Regardless of distances specified in this subsection, where conditions for significant adverse effects on natural conditions may be present, the Development Review Board may extend the permit application review period sufficiently to permit State and/or licensed expert review.

5.1.4 Swimming Pools and Ponds Over 1,000 Gallons

1. Unless addressed as an exception in Section 4.2.1, a swimming pool may be considered accessory to the use of a dwelling unit provided such pool is used only by the residents of the premises and their guests, that no portion of the water area be closer than 20 feet from any lot line, and that the pool be securely fenced with a latching gate to a height of not less than four feet.

2. A pond may be approved by the Development Review Board after a public hearing if there shall be no adverse effect upon the public health and safety or upon land uses in the area. No water area shall be closer than 20 feet from any side or rear lot line except as approved by the Development Review Board.

3. In reviewing an application for a pond, the Development Review Board shall require such plans, specifications, and other information it deems necessary to effectively evaluate the safety of the proposed pond. Such information may include:

   a. Map of the entire property showing the location of the pond with respect to present structures, roads, and boundaries;

   b. The nearest building(s) on adjoining land;

   c. Specifications for the dam, if one is to be constructed;

   d. An estimate of the surface area of the pond and the volume of water;

   e. Natural or proposed drainage and contours;

   f. Identification of permanent pond overflow and spillway provisions;

   g. Evaluation and recommendation by the Bennington County Conservation District.

5.1.5 Potable Water and On-Site Wastewater Disposal Systems

All buildings and uses not utilizing a municipal sewer system for wastewater disposal shall comply with the current *Wastewater Systems and Potable Water Supplies Rules* regarding wastewater treatment and disposal for on-site systems. Prior to approval and granting of a zoning permit for a development requiring potable water and wastewater systems, the applicant shall certify that a permit has been obtained demonstrating compliance with the above and shall attach a copy of such permit with the application for a zoning permit.

5.1.6 Frontage and Access

No land development may be permitted on lots that have a frontage on a public street less than the minimum lot width per Section 6 of these regulations. However, with approval of the Development Review Board, land development may be permitted on a lot otherwise conforming with these

regulations having access to a public street by a permanent easement or right-of-way not less than 22 feet wide for one- and two-family dwellings or not less than 34 feet wide for all other uses.

Driveways and their intersections with streets or highways shall be located and designed per the National Cooperative Highway Research Program – Report 659. Unless otherwise specifically approved by the Development Review Board there shall not be more than one highway access driveway for lots with less than 200 feet of frontage and one additional highway access driveway for each 200 feet of frontage in excess of 200 feet. Driveways shall be located not less than 150 feet from street intersections and shall enter streets in such a manner as to provide the maximum sight distance possible.

The Development Review Board may require the installation of acceleration and deceleration lanes on the street or highway adjacent to any driveway if it deems it necessary.

Where the lot fronts upon a state highway, the owner shall first obtain the approval of the Vermont Agency of Transportation for all driveway access and shall submit evidence of such approval with the proposed site plan. Where the lot fronts upon a Village road, the owner shall first obtain a curb cut permit from the Highway Department of the Village of North Bennington.

5.1.7 Paved Areas and Exterior Surfaces

All driveways, parking areas, walks, ramps, stairs/steps, patios, or terraces of any type of paving material, including curbing or edging shall maintain a minimum setback of five (5) feet from the side and rear lot lines. Front yard walks parallel to the street line, and access walks and driveways providing direct access to a building or parking lot, may be constructed to the lot line.

5.1.8 Off-Street Parking

1. Each dwelling unit shall be provided with two parking spaces, off-street and out of the public right-of-way, including for accessory dwelling units (one parking space per dwelling unit required), and except as otherwise specifically provided for in these regulations. For each single-family or duplex dwelling unit in the Municipal Infrastructure Overlay Area, Category 2, the parking requirement is a minimum of one parking space per dwelling unit, although two spaces are strongly recommended. For multi-family dwelling units in the Municipal Infrastructure Overlay Area, Category 2, the parking requirement is a minimum of one and a half parking spaces per dwelling unit, although two spaces are strongly recommended. Parking may be provided on adjacent lots if a valid legal agreement exists. On street parking may be permitted by the Development Review Board per a Site Plan or Conditional Use Review.

2. Retail establishments, professional offices, financial institutions, personal service business, and similar uses shall provide one parking space for every 300 square feet of gross floor area.

3. Commercial lodging facilities shall provide at least one parking space for each guest room and one parking space for each employee on the site at any one time.

4. Restaurants or taverns shall provide one parking space per four seats and one space for each employee on site at one time. Consideration may be given to the availability of public municipal parking within 300 feet of such an establishment.

5. Service stations shall provide one parking space for every 350 square feet of gross floor area, and queue capacity equal to the service capacity of the pumps.

6. Schools shall provide one parking space per employee, one space per classroom, and adequate drop-off areas.

7. All other commercial uses shall provide the number of parking spaces deemed necessary by the Development Review Board to safely and conveniently accommodate the employees and customers at that site, or as specifically provided in these regulations.

8. Industrial uses shall provide at least one parking space for every three persons normally employed on any one shift, or as otherwise required by specific provisions of these regulations or as required by the Development Review Board.

9. In the Village Center District, it may be impractical to provide required off- street parking due to small lot sizes and the size and location of existing buildings. In these cases, the Development Review Board may give consideration to municipal off-street parking, on-street parking, and the potential for shared private parking when determining parking requirements. Buildings or uses lacking sufficient off-street parking shall not be permitted to enlarge the structure or expand the use in a way that would increase parking demand if the Development Review Board determines that such changes would worsen existing parking conditions or create a safety hazard.

10. In VR Districts, required parking may not be located in the front yard setback, unless on a driveway at a permitted curb cut. Pavement shall not replace lawns or planted areas in the front yard.

5.1.9 Motor Vehicles, Scrap and Waste Material

The parking or keeping of one truck or commercial vehicle on property used for residential purposes are allowed provided said vehicle:

1. Does not exceed manufacturer’s rating of ¾ ton capacity.
2. Is used as a means of transport to and from the resident’s place of business. (Maintenance and/or stocking of the vehicle on site is prohibited.)
3. Is not loaded with flammable, noxious, or dangerous materials.
4. Is parked or kept in proper off-street parking facilities located on the resident’s property.

Parking or keeping equipment or vehicles accessory to a construction operation on construction sites for a period not to extend beyond the time of the construction contract and which does not create a nuisance to surrounding properties or create a hazardous condition for vehicles or pedestrians.

No inoperable motor vehicle may be stored on any lot for a period in excess of 30 days except in a building. Inoperable means any of the following: unregistered, used for salvage, or un-inspected. This section shall not pertain to commercial uses for car sales, auto body or vehicle repair shops, where permitted by these regulations.

No scrap or waste material not originating on the premises may be stored or disposed of on any lot, except at a municipal solid waste disposal area. No scrap or waste material originating on the premises may be stored on any lot except that a 30-day period shall be allowed for removal of scrap or waste material resulting from a construction operation, or from fire, flood, or similar emergency. Refer also to provisions of the applicable Village Ordinances.

5.1.10 Screening and Fencing

1. Shrubbery, trees, hedges, raised planters or planting beds, or similar vegetation installed specifically for screening or fencing uses, fences, walls (including retaining walls), all exceeding two feet and less than eight feet in height, shall maintain a minimum setback requirement of five feet from side and rear lot lines.

2. Screening and fencing, as described in subsection (1), installed on lots fronting on streets with sidewalks, pathways, or planned sidewalks or pathways shall terminate 8 feet from the roadway edge or four feet from the edge of the sidewalks, pathways, or planned sidewalks or pathways, whichever is greater, provided the screening or fencing is properly maintained and does not interfere with or create a nuisance or hazardous condition to pedestrian traffic or to sidewalk or pathway construction and maintenance. The Zoning Administrator may require the applicant to submit for Village Highway Department approval of screening and fencing along street frontage.

3. Screening fencing, as described in subsection (1), installed on lots fronting on streets without current or planned sidewalks or pathways shall not be allowed within the yard area between the paved surface of the street and eight feet onto the lot in question.

4. No sign, fence, wall, tree, hedge, or similar vegetation or structure more than two feet in height shall be placed so as to interfere with visibility of motorists, bicyclists, or pedestrians on streets or on intersecting driveways, sidewalks, or pathways.

5.1.11 Exterior Lighting

1. To ensure appropriate lighting while minimizing its undesirable effects, the following general standards apply to outdoor lighting in North Bennington, except for temporary holiday lighting which is exempt if the temporary holiday lighting is illuminated only during the duration of the intended holiday season and not year-round. Holiday light displays (decorations) that are illuminated and non-illuminated cannot be displayed for more than 45 consecutive days and 90 days total in any calendar year.
2. Outdoor lighting fixtures shall be limited to recessed, shielded, or cutoff fixtures.
3. All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood and zoning district in which it is located. The Outdoor Lighting Manual for Vermont Municipalities may be consulted when determining appropriate lighting levels.
4. Outdoor lighting fixtures should include timers, dimmers, and/or sensors to reduce energy consumption and eliminate unneeded lighting.
5. Electrical service to permanent outdoor lighting fixtures shall be buried.
6. Security lighting, where deemed necessary by the Development Review Board, shall be shielded and aimed so that illumination is directed only onto the designated area and is not cast on other areas.
7. Outdoor lighting fixtures shall only be illuminated during the hours of operation for non-residential uses unless specially approved by the Development Review Board.

5.1.12 Wireless Communications Facilities and Radio Frequency Facilities

5.1.12.1 Substantial Deference

Given that radiofrequency radiation emitted by wireless communication facilities' cellular antennas has the capacity to penetrate living cells of plants, insects, animals, and humans;

Given that nonionizing radiation, when tested at levels far below United States Federal Communications Commission permitted standards and at relatively short durations, has been shown incontrovertibly to cause oxidative stress, hormonal imbalances, and DNA damage in toxicology studies;

Given that gestating fetuses, infants, and children are more susceptible to the adverse effects of nonionizing radiation of the types emitted by wireless communications facilities;

Given that the United States Federal Communications Commission has not undertaken rigorous, long-term testing by independent, highly qualified research entities to determine the public health consequences of wireless broadband frequency radiation but instead has erroneously relied on three to seven 60-minute duration exposures of five monkeys and eight rats in the 1980s and several

associated demonstrably flawed assumptions for the last 40 years in determining maximum permissible radiation exposure levels;

Given that the 9th Circuit Federal Court of Appeals has found that the United States Federal Communications Commission rulemaking on maximum permissible exposure limits was so egregiously inadequate that they called it “arbitrary and capricious” and that the FCC had failed to meet “even the low threshold of reasoned analysis,” remanding them to establish evidence-based requirements;

Given that the United States Federal Communications Commission has preempted any State or Municipality from restricting the development of wireless broadband frequency facilities based on consideration of the public health consequences of wireless broadband frequency radiation;

Given the National Institutes of Health's decade long study of wireless frequency radiation by the National Toxicology Program that found “clear evidence” of cancer and evidence of DNA damage “with broad implications for public health” was dismissed without action by the United States Federal Communications Commission;

Given that the United States Federal Communications Commission has made no provision for the wellbeing of those with hypersensitivities to wireless broadband frequency radiation nor provided any recourse for redress of their losses;

Given that the State of Vermont has not undertaken rigorous, long-term testing by independent, highly qualified research entities to determine the public health consequences of wireless broadband frequency radiation;

Given that the State of Vermont Department of Public Service has on staff no research scientists, pathologists, toxicologists, physicians, entomologist, dendrologists, or epidemiologists skilled in the biological processes impacted by nonionizing radiation associated with wireless broadband frequency radiation and has relied instead on the testimony of telecommunications engineers, industry lawyers, and lobbyists, making the department unquestionably unqualified to assess public health and environmental consequences of the radiation they approve;

Given that the State of Vermont has preempted any city, town, or village from establishing prohibitions restricting the development of wireless broadband frequency facilities based on consideration of the public health consequences of wireless broadband frequency radiation;

Given that the State of Vermont Department of Public Service’s Certificate of Public Good hinges on a text (30 VSA 202c) which requires that the Department direct the benefits of telecommunications technology to all Vermonters and yet the Department does not certify nor affirm nor guarantee nor ensure that wireless broadband facilities are free of adverse public health consequences or environmental damage;

Given that 24 VSA 4412 **Required Provisions and Prohibited Effects** (7)(c) states *Nothing in this section shall be construed to restrict the authority of a municipality to abate public nuisances or to abate or remove public health risks or hazards;* and

Given that the Village of North Bennington has a strong belief in peer-reviewed scientific inquiry and in proceeding with an understanding that Public Good requires us to heavily weigh consideration of our citizens' public health, we request of the Vermont Department of Public Service substantial deference to the following planning regulations.

5.1.12.2 Legislative Purpose

1. To establish clear standards for property owners choosing to locate wireless communications facilities, radio frequency facilities, buildings and structures, equipment, communications towers, antenna towers, masts and monopoles on their land.
2. To promote the health, safety, and general welfare of the residents of the Village of North Bennington, through the establishment of minimum standards to reduce the adverse visual effects of communications facilities, including but not limited to transmission towers, radio frequency facilities, and antennas, through careful design, siting and screening and buffering.
3. To protect residential areas and land uses and property values from potential adverse impacts of using the property owner's land for towers and antennas.
4. To encourage property owners to locate communications facilities, radio frequency facilities, and communications towers in areas suitably screened, buffered, and adequately separated from residential, primary/secondary educational, and vocational uses.
5. To minimize the total number of communications facilities, radio frequency facilities, and communications towers throughout the community through collocation.
6. To require property owners choosing to use their land for communications towers, radio frequency facilities, and antennas to configure them in a way that minimizes adverse visual, aesthetic and community character intrusion impacts caused by the installation and view of communications towers, radio frequency facilities, and antennas, through careful design, siting, landscape screening and buffering, including sufficient setbacks to reduce visual impacts to adjacent properties and innovative camouflaging techniques such as alternative tower structures, thereby protecting the physical appearance of the community and preserving its scenic and natural beauty.
7. To avoid potential damage to adjacent properties from communications towers and radio frequency facilities, through careful engineering and appropriate siting of communications towers and other support structures.
8. To enhance the ability of the providers of telecommunications services and radio frequency facilities to extend such services to the higher education community, quickly, effectively, and efficiently by facilitating the siting of personal wireless communications and radio frequency facilities proximate to higher education campuses.

5.1.12.3 Jurisdiction, Change of Use, and Property Tax Assessment Procedures

While the Village of North Bennington does not regulate wireless communications facilities beyond the limits permitted by Federal statute, the Village retains zoning authority per State

Statute. Specifically, State Statute 24 VSA 117 Section 4412 (9) identifies the municipality's responsibility to review and approve acceptable applications.

Additionally, the Village retains authority to assess and collect real property taxes from the landowner of record. In the administration of that authority the landowner of record shall be required to file a change of use Notification of Intent with the Zoning Administrator postmarked on the same date that the wireless communication carrier submits their notification of intent to the Public Utilities Commission. Failure to adhere to this requirement may expose the property owner to fines. The Zoning Administrator will provide Notification of Intent Forms upon request. Property owners shall not change the use of their property for the construction of wireless telecommunications facilities without submitting a complete Notification of Intent form; see 5.1.12.5.

An annual meeting with the Bennington Town Assessor and the property owner of record may be hosted by the Village Trustees to ensure fair and accurate assessments.

5.1.12.4 Definitions

As used in this article, the following terms shall have the meanings indicated:

ADEQUATE COVERAGE Coverage is considered to be adequate within the service area of the Village of North Bennington if the minimum standards set forth by the Federal Communications Commission to permit the wireless communications carrier to operate a personal wireless communications service within the area are met. (Note all submissions related to coverage shall be signed by an officer of the carrier company, dated, and affirmed as correct under penalty of perjury.)

AESTHETIC INTRUSION ZONE For major wireless communications facilities and radio frequency facilities, a radial area of 1,650 feet from any habitable structure outside the Education District. For minor wireless communications facilities, a radial area of 500 feet from any habitable structure outside the Education District.

ALTERNATIVE TOWER STRUCTURE Man-made trees, light poles, masts, and similar alternative designs, including uninhabited structures that camouflage or conceal the presence of antennas or towers.

ANTENNAS A system of electrical conductors that transmits or receives radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

COLLOCATION The siting and/or mounting of multiple communications facilities used by the same provider, or by two or more competing providers, on any common antenna support structure.

EXCESS COVERAGE Coverage that exceeds ADEQUATE COVERAGE.

MAJOR WIRELESS COMMUNICATIONS FACILITY Any wireless communications facility or radio frequency facilities that is not a minor wireless or minor radio communications facility, including, but not limited to, any facilities which include a new wireless communications or radio frequency tower.

MINOR WIRELESS COMMUNICATIONS FACILITY Any wireless communications facility situated on the same structure as an existing wireless communications facility designed for collocation and previously approved under these regulations; or is used exclusively for emergency services radio frequency transmissions; or is used exclusively for commercial AM or FM radio transmissions; or is used for non-commercial amateur radio frequency club transmissions or is used exclusively for radio frequency reception. Note: Cannister antennas, regardless of mounting, are not minor wireless communication facilities.

RESIDENTIAL DISTRICT All zoning districts in which dwellings or lodgings are permitted with the exception of the Educational Campus District.

WIRELESS COMMUNICATIONS FACILITY Any site containing equipment used in connection with the commercial operation of wireless communications services, as defined herein, and as the term "personal wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(C), up to the date of these regulations enactment, to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures.

WIRELESS COMMUNICATIONS SERVICES The provision of personal wireless communications services is limited exclusively to those regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(C), or as hereafter amended. Personal wireless services shall exclusively mean wireless telecommunications services that are interconnected with the public telephone network and are offered commercially to the public. Examples include cellular telephony, paging, certain dispatch services, and services that use wireless technology to provide telephone service to a fixed location such as a home or office. All other wireless communications services shall require an independent application, a conditional use review, and the Village of North Bennington Development Review Board approval.

COMMUNICATIONS TOWER Any freestanding structure, including lattice structures or framework and freestanding self-supported vertical poles (commonly known as "monopoles") on which any equipment is located in connection with the provision of providing wireless communications services or radio frequency transmission services.

5.1.12.5 Documentation and Notification Completeness

All jurisdictionally-applicable application materials, submittals, reports, correspondence, etc. shall be submitted exclusively by the property owner of record. The property owner shall be required to attend all presentations concerning the change of use notification and land value

reassessment. All communications concerning these items shall be via the property owner of record.

To be deemed complete, Notifications of Intent shall be accompanied by a letter attesting that the primary agency of responsibility, the United States Federal Communications Commission, has completed their court-mandated requirements of Case 20-1025 Envtl. Health Tr. v. Fed. Communications Comm'n, 9 F.4th 893 (D.C. Cir. 2021).

[Please Note: At the time of adoption of these regulations, the FCC's inaction in response to the D.C. Cir.'s 2021 ruling and mandate in Case 20-1025 Envtl. Health Tr. v. Fed. Communications Comm'n, 9 F.4th 893 (D.C. Cir. 2021) "to provide a reasoned explanation for its determination that its guidelines adequately protect against harmful effects of exposure to radio-frequency [microwave] radiation" is the sole reason for this attestation requirement for new wireless telecommunications facilities. Notifications of Intent may be impacted by the FCC's inaction. Once the FCC completes its court-mandated work, and the property owner of record provides substantial written evidence of this completed FCC work, then this requirement will be satisfied and all Notifications of Intent can be considered. This means there ***are*** *conditions under which the Notifications of Intent can be considered and therefore this application requirement is* ***not*** *a complete prohibition of changes of use for the construction of new wireless telecommunications facilities.]*

Once the Zoning Administrator certifies the receipt of a complete Notification of Intent form, the property owner of record will have ninety days to submit a change of use application for conditional use review.

5.1.12.6 Districts and Inspections

Major wireless communications and radio frequency facilities shall be located within the Educational Campus District.

Where the wireless communications and radio frequency facility applicant can provide incontrovertible evidence that adequate coverage cannot be achieved by locating the facility on a lot in the Educational Campus District, the applicant shall submit that evidence signed by an officer of the Applicant's parent company, dated, and notarized affirming its adherence to FCC guidelines for adequate coverage under penalty of perjury. In no instance shall major and minor wireless communications or radio frequency facilities be located in the Historic Overlay or Conservation Districts. Excess coverage beyond that required to attain adequate coverage is prohibited in all Districts.

The property owner of record choosing to utilize their property for a wireless communications facility or radio frequency facilities shall annually affirm under penalty of perjury that:

- The structure has been inspected by engineers licensed in the State of Vermont;
- The structure has been determined to be capable of safely supporting the wireless communications or radio frequency facilities;

- The electrical power systems are in excellent repair and compliant with current nationally recognized codes including the International Electrical Code applicable at the time of the inspection; and
- The aggregate maximum radiation emissions from those facilities are in conformance with the rules and regulations of all governmental entities having jurisdiction over such communications facilities including, without limitation, the FCC and the Vermont Department of Public Service.

A failure to provide annual affirmative statements identified above will result in inspections undertaken by the Village with any costs incurred by the Village added to the property owner of record's real property tax charges.

5.1.12.7 Information Requests

Considering the gravity of the potential public health consequences (especially pediatric health consequences), property value consequences, Village character impacts, and social distrust associated with the installation of wireless communications facilities, the Village respectfully requests in furtherance of appropriate future planning activities the following background information at the time of each Certification approval from the Vermont Department of Public Service:

1. **Copies of the Public Health Investigations,** specifically those utilized in Department's evaluation of the Public Good of wireless broadband frequency radiation, particularly its impacts on human infants, the hypersensitive, and the environment.
2. **A Service Coverage Map and Report.** The service coverage map showing all existing and proposed areas of service coverage relating to the proposed communications facility with the map locating all existing sites in the Village and in bordering communities which contain communications towers or related facilities. A report indicating why the proposed communications tower, equipment and facility are necessary. Identification within the proposed project site service coverage area which are not, and could not be, served by either existing facilities, by collocation, utilization of alternative technology or an alternative tower structure. A map depicting and listing all existing sites in the Village and bordering communities containing transmitting antenna(s) used by the operator, owner or communications carrier.
3. **A Long-Range Communications Facilities Plan.** A long-range plan evidencing that the proposed location of the wireless communications or radio frequency facility and supporting buildings and equipment has been planned to result in the fewest number of communications transmission tower locations within the Village. It would be helpful if the plan indicated how the Department intends to approve service throughout the Village, and how they plan to coordinate the installation of all providers of wireless and radio frequency communications services in the Village, specifically planned and possible locations of additional tower sites, additional antennas, related service area coverage, and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and tower height, community intrusion impacts and visual and aesthetic impacts.

4. **Inspection Reports.** Reports provided to the Department of Public Service that verify the structural, building, electrical, and fire safety inspections mandated by State Statute have been strictly adhered to.

5. **Insurance Policies Required of the Facility Operators.** Copies of any policies required of the facility operators against claims for attributable adverse public health consequences.

6. **Bonds Held to Fund Tower and Facility Removal in the Event of Termination of Service.** Copies of any bonds held to fund the removal of any support structures and wireless communication facilities in the event of termination of service by operators.

5.1.12.8 Aesthetic Requirements

The following aesthetic requirements are to be adhered to:

1. **Visual impact assessment submitted prior to installation.**

   a) A viewshed analysis sufficient to determine locations where the tower and appurtenant facilities may be visible.

   b) Graphic representations of "before" and "after" views from key viewpoints located inside and outside of the Village including, but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, residential developments, location where the site is visible to a large number of visitors or travelers, and where identified by the Village of North Bennington Development Review Board. Deciduous trees shall be represented without foliage. Representations of trees to be removed during construction shall not appear in the graphic representation of the “after” views.

   c) Assessment of alternative tower designs and color schemes, as described in Subsection below.

   d) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

   e) The Development Review Board may require the property owner choosing to locate a wireless communications facility on their land to conduct a "balloon test" prior to the close of the public hearing. The duration of the balloon test shall not be less than 24 daylit hours (between sunrise to sunset). The public shall be given notice of such a test in a manner directed by the Development Review Board.

2. **Tower design.** A report regarding alternative tower designs which includes lattice and monopole structures and other designs to minimize visual impacts. The Board may request a review of the tower design by a qualified engineer to evaluate the need for, and the design of, any new tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:

   a) Towers shall be designed to accommodate future shared use by other communications providers.

   b) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.

c) No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.

d) Any new tower shall be securely mounted to withstand damage from earthquakes and wind and ice loads in accordance with regulatory requirements, and structural calculations and plans stamped by a Vermont State licensed professional engineer specializing in structural engineering shall be available for review.

e) The height of any new tower shall be the minimum height necessary. The height shall consider the potential for shared use and be established to meet only the adequate coverage requirements of the Federal Communications Commission for the area encompassing the Village of North Bennington. Considering maximum shared use, the maximum height of the tower shall not be greater than 95 feet or 20 feet above the average surrounding tree height within a 200-foot radius, whichever is greater. The maximum height limitations set forth in the Zoning Code for buildings shall not apply to towers approved pursuant to this article; nevertheless, the height limitations shall apply to buildings associated with the facility.

3. **Exterior Elevations.** Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(s) is mounted. Building and fence elevations shall be provided.

4. **Site Plan.** A site plan showing, at a minimum, all existing roads, buildings, tower(s), guy wires and anchors, antennas, parking, and landscaping, and shall include grading plans for new facilities and roads. Lot size and setbacks shall be shown. Any proposed wireless communications tower and its accessory structures shall be located outside the aesthetic exclusion zone on a single parcel and shall comply with setback requirements as identified below.

Distance from public facilities shall be indicated. To protect the health, safety and welfare of children who may be injured by falling ice or debris, all communications towers shall be a distance of not less than 350 feet from the nearest property line, sidewalk, hiking trail, camp, public park, or playground.

Lot size of major communications facilities sites shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel.

Wireless communications and radio frequency towers shall be located with a minimum setback from any property line equal to the height of the tower in any zoning district. The property owner must demonstrate that there is adequate protection for adjoining properties from the dangers of falling ice or debris through either an easement or other safeguards. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.

Additional setbacks may be required by the Development Review Board to contain on-site ice fall or debris from a tower failure.

5.1.12.9 Vegetative screening

All communications facilities shall provide landscaping as follows:

1. All communications towers shall be located and designed to have the least possible adverse visual and aesthetic effect on the Village.
2. The area surrounding the installation, other than the area necessary to maintain a clear line of site to the signal source, shall be landscaped and maintained with trees, shrubs, and ground cover to maximize screening and visual buffering. An existing natural vegetative buffer which meets or exceeds the above requirements may be substituted or enhanced for said requirements.
3. Screening and buffering utilizing trees of height and density established by the Development Review Board that will, over time, reduce visual impacts resulting from the installation of said facility shall be provided.
4. The outside of security fencing shall be screened with evergreen shrubs, trees or climbing evergreen material on the fencing.
5. The base of any communications tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species. Existing vegetation shall be preserved to the maximum extent practicable. Additional planting shall be required, as necessary, to screen and buffer all structures from nearby properties or important view sheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.

5.1.12.10 Fencing

Security and safety fencing. Security and safety fencing shall be ten feet high and located around all communications towers, equipment, and related facilities to restrict unauthorized access. Access to all structures shall be through a locked gate or principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with appropriate anti-climbing devices. Failure to maintain said security and safety fencing in an appropriate manner shall be grounds for fines in amounts approved by the Trustees of the Village.

All communications towers, antenna towers or monopoles, and other supporting structures, shall be made inaccessible to nonauthorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.

5.1.12.11 Coloring and Marking

Unless otherwise required by the FAA or FCC, all communications facilities, including antenna and communications towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, provided such coloring, camouflage and/or shielding do not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will minimize visual and aesthetic impacts. Towers and all appendages shall generally have a

rust-resistant finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.

5.1.12.12 Signals and Lighting

Signals and lights. No communications tower, antenna tower or monopole shall include any signals, lights or illumination unless required by the FAA or other applicable authority. The property owner shall provide evidence mandating any requirement for lighting. If lighting is required, said lighting shall be shown to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be minimized and shall be properly shielded to prevent light emission and glare onto adjacent properties.

5.1.12.13 Signage

Notification Signage. A sign identifying the project scope, property owner of record, and contact information for the property owner of record shall be placed in a prominent location within ten feet of a public way when a Letter of Notification is sent to the Village. Additional signs may be required by the Development Review Board. Signs shall be rectangular, four feet wide and three feet high with the top of the sign at five feet above the surrounding grade. Signs shall be left in place until the facility is operational.

Permanent Signage. No signs, including advertising signs, shall be permitted on any antenna, communications tower, antenna tower or monopole, or antenna support structure, except as follows:

1. Signs specifically required by a federal, state or local agency.
2. Each site shall include a sign containing the name of the owner and operator of any antenna present, including an emergency phone number. In addition, any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly signed.
3. Any signage permitted above shall comply with the sign regulations of the Village.

5.1.12.14 Electrical Power Routing and Noise Suppression

All electrical power supply to service the on-site buildings and appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.

5.1.12.15 Access and Parking

Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall minimize ground disturbance and vegetation cutting to within the toe of the fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

Parking. Parking shall be provided on-site in an amount determined by the Development Review Board after consideration of the scale of the facility. No parking shall be located in any required front yard.

5.1.12.16 Notifications

1. Notification, in writing, by certified mail of all landowners within 1,650 feet of the property line of the parcel on which a new tower is proposed.
2. Notification, in writing, to the municipal Clerk of any adjoining municipality within one quarter mile of a proposed site or a greater distance if determined by the Development Review Board to be impacted by a proposed new communications tower.
3. In addition to the notification requirements imposed by the Department of Public Service, the notifications shall include the name and contact information for the property owner of record and the Village Notification Form. The contents of the Form will be created upon receipt of the requested information per 5.1.12.7. Forms will be provided by the Zoning Administrator for inclusion with the certified mailing once the number of recipients is determined.
4. The Applicant shall pay for all costs associated with the mailing.
5. Failure to provide complete notification forms may result in fines for the property owner of record.

5.1.12.17 Minor wireless communications facilities.

1. At all times, the shared use upon existing uninhabited tall structures (for example, water towers, farm silos, etc.) and upon existing approved towers shall be preferred to the construction of major communications facilities, which include new communications towers and/or monopoles.

   An application to collocate a communications facility upon an existing communications facility designed for collocation and previously approved under this article will be addressed per 5.1.12.18 and the regulations of this Section.

   An application for any other minor communications facility shall be subject to site plan review by the Development Review Board in accordance with the Land Use and Development Regulations of the Village of North Bennington. The Development Review Board may require the property owner to submit any of the items required for submission in major wireless communications facilities' applications as part of the site plan review process.

2. Information included in application. An application for site plan approval of a minor communications facility shall include the following:
   a) A completed site plan application form.
   b) Consent from the owner of the existing facility to allow shared use.
   c) A site plan showing all existing and proposed structures and improvements, including antennas, road, buildings, guy wires and anchors, parking and

landscaping and shall include grading plans for new facilities and roads. Any methods used to conceal a modification to the existing facility shall be indicated on the site plan.

d) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure, will not hamper existing emergency networks and explaining what modifications, if any, will be required in order to certify the above.

e) A copy of the wireless communications carrier's Federal Communications Commission (FCC) license.

3. The Development Review Board may waive any of the above requirements if it is demonstrated by the property owner that under the facts and circumstances the submission of such documentation would cause unnecessary and undue hardship.
4. The Development Review Board may add any other documentation, reports or evidence that it deems necessary to ensure the health, safety and welfare of the community is adequately addressed.

5.1.12.18 Projects Termed De Minimus by the Public Utilities Commission

De minimis telecommunications impacts. An entity designated by the municipality, specifically the Village of North Bennington Development Review Board, shall review complete telecommunications facilities applications and upon determining that a particular application will impose no impact or de minimis impact upon any criteria established in these regulations shall approve the application. Failure to secure the Village’s approval shall constitute a violation and may result in fines.

5.1.12.19 Requirements for all Letter of Notification Submissions

1. Removal.
   a) Any antenna, communications facility, communications tower, antenna tower or monopole, including any supporting structure and related appurtenances, or part thereof, that is not used for a period of six months in any twelve-month period, shall be removed and the site restored by, and at the expense of, the owner of the property.
   b) An extension of an additional six months may be granted by the Zoning Administrator upon a written request, including proof as determined reasonable by the Zoning Administrator that the property owner is actively engaged in the marketing of the property for sale or rent.
   c) In the event the tower is not removed and the site restored as herein required, the Village, after notice and opportunity to be heard, may cause the same to be removed and the site restored at the expense of the property owner, collectable in the same manner as a real property tax.
2. Operational certification. Within 45 days of initial operation or modification of a communications facility, the property owner shall submit to the Zoning Administrator a written certification by a professional engineer that the communications facility is in adherence with the application submitted, any conditions imposed, and all other provisions

of this chapter as a condition to continue operating past the forty-five-day period. The Village may confirm and periodically reconfirm compliance as necessary to ensure that the provisions of this chapter, including aggregate NIER level thresholds, as set forth by the FCC, are in compliance. The property owner shall supply all necessary documentation to permit the Village to make such a determination regarding compliance. If found not to be in compliance, the property owner shall have the facility cease operation until compliance is restored.

3. Reimbursement of review expenses. All costs and expenses incurred by the Development Review Board in connection with its review of an application for a wireless or radio frequency communications facility, initial certification testing, and periodic reconfirmation testing shall be reimbursed to the Village by the property owner. Failure to comply with testing and costs reimbursement shall vacate all approvals and operations must cease until compliance is restored.
4. Indemnification Letter. Prior to any broadcast emissions the property owner must provide a letter to the Village Trustees indemnifying the Village for claims resulting from attributable adverse public health or environmental consequences arising from the aggregate wireless communications radiation of the facility. The indemnification must transfer with the property.
5. Commercial Liability Insurance. Prior to any broadcast emissions, property owners shall document existence of commercial liability insurance against health claims related to the aggregate radiofrequency radiation exposure attributable to the wireless communications facilities, naming the Village of North Bennington as an additional insured. Self-insurance by a property owner or by wireless communications carriers including affiliated entities is not acceptable. Proof of insurance is required annually on the anniversary date of the Letter of Notification. Failure to provide documentation shall constitute a violation and may incur fines as determined by the Village Trustees.
6. Property owners choosing to use their land for wireless communications or radio frequency facilities shall submit with their Letter of Notification the following acknowledgement form. The form shall be notarized by a licensed notary public.

Property Owner's Wireless Communications Facility Acknowledgement Form

All property owners seeking to locate wireless communication facilities on their land shall submit this acknowledgement form signed and dated with their Letter of Notification. Please consult the Land Use and Development Regulations Section 5.1.12 for additional requirements concerning this proposed use.

The Village of North Bennington promotes access to wireless telephony frequency transmission facilities within its environs to the extent that such transmissions have been proven by rigorous, long-term, evidence-based research undertaken by independent qualified entities to be without adverse public health consequences.

The Village of North Bennington and the State of Vermont are prohibited by Federal Law from prohibiting the installation of wireless communications facilities on the basis of environmental or human health consequences.

The Village of North Bennington recommends that the property owner of record determine whether a Certificate of Public Good issued by the Vermont State Department of Public Service Public Utilities Commission is an affirmation that there will be no adverse public health consequences of the permitted use.

The Village of North Bennington does not represent that there will be no adverse public health consequences of aggregate wireless communication facility radiation.

The Village of North Bennington is unaware of any wireless communication facility carrier having undertaken rigorous, long-term, evidence-based research by independent qualified entities of the public health consequences of their wireless transmission facilities radiation.

The Village of North Bennington reserves the right to vigorously pursue damages if attributable, adverse public health consequences to its citizens are discovered.

I, having chosen to locate a wireless communications facility on my land within the Village of North Bennington and as the rightful property owner of (address and parcel number) _____ , acknowledge receipt of this form.

Signature_____ Date_____

Print Name _____

5.1.12.19 Existing installations.

Any legal nonconforming communications facility or communications tower shall be permitted to remain until such time as said use and facility is altered, at which time compliance with this article is required.

5.1.13 Recreational Vehicle Tracks

Recreational vehicle tracks shall be no closer than 100 feet to the lot boundaries where those boundaries are shared with lots permitting residential use and no closer than 30 feet to lot boundaries shared with a public right of way. Use of the tracks is restricted to the hours of 9:00 am and 7:00pm all days of the year. Compliance with the Village Ordinance regulating noise is mandatory. Recreational vehicle tracks are not permitted in the historic overlay or conservation districts.

5.1.14 Shipping Containers

A permit is required for the storage of shipping containers. See Section 6.2.1 and 6.2.2. Shipping containers shall be subject to the setback provisions of these regulations. Storage of shipping

containers outside of enclosed buildings shall not exceed a duration of four months in any two-year period. Storage of shipping containers during a duly permitted active construction period shall not be limited.

5.1.15 Energy Plant Screening

Visual screening of energy plants utilizing reasonable aesthetic mitigation measures to harmonize a facility with its surroundings including landscaping, vegetation, fencing, and topographic features shall be required. See 24 VSA Chapter 061 Subchapter 011 Section 2291 (28).

5.2 Dwelling and Related Regulations

5.2.1 Dwelling Units on Lot

Every one-family or two-family dwelling unit shall be located on an individual lot, unless otherwise provided for in these regulations as in Section 5.2.5 Accessory Dwelling Units, or otherwise approved by the Development Review Board as part of a planned unit development or cottage court development.

Setbacks for Single-Family Dwellings and Two-Unit Dwellings shall have the same dimensional requirements.

In Category 2 Municipal Overlay Areas as defined in Section 11.2, single-family and multi-unit dwellings are permitted to a density ratio not to exceed five dwelling units per acre, except VR3. (See 6.2.1.2.) Accessory Dwelling Units do not affect this density ratio.

Projects providing exclusively affordable single and/or multiunit dwellings that occur in Category 2 Municipal Overlay Areas as defined in Section 11.2 shall be permitted in a density ratio of seven dwelling units per acre. Accessory Dwelling Units do not affect this density ratio.

5.2.2 Existing Small Lots

Any lot in individual and separate, unaffiliated ownership from surrounding properties, lawfully in existence as of the effective date of these regulations, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet, and all other applicable requirements of these regulations are met.

If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for the purposes of these regulations. However, such lot shall not be deemed merged and may be separately conveyed if:

1. The lots are conveyed in the preexisting, nonconforming configuration, and
2. On the effective date of these regulations each lot had been developed with an independent water supply and sewer system, and
3. At the time of transfer, each water supply and sewer system is functioning in an acceptable manner, and
4. The deeds of conveyance create appropriate easements on both lots for replacement of one or more sewer systems in case a sewer system fails.

5.2.3 Mobile Homes, Tiny Homes, and Travel Trailers

1. A mobile home or residential dwelling unit on a wheeled frame (aka tiny house) may be used as a dwelling~~,~~ provided that it is located on a lot meeting all of the requirements of these regulations applicable to a dwelling in the district in which it is located, and that it is suitably anchored to a permanent masonry foundation and is enclosed by some form of permanent foundation skirting. Additionally, mobile homes must have fixed connections to approved sources of potable water and approved wastewater disposal infrastructure.
2. A mobile home or travel trailer may be used temporarily as a field office, accessory to a construction operation being executed on the premises, for a period not to extend beyond the zoning permit.
3. On any lot meeting the dimensional requirements of these regulations, the permanent resident of the dwelling on that lot may store an unoccupied travel trailer, boat trailer, or boat anywhere except in the front yard.
4. A licensed and registered travel trailer may be occupied by a non-paying guest of the occupant of such lot for a period not exceeding 30 days in any 12-month period.

5.2.4 Height of Structures

See Section 6 of these regulations for maximum building heights for individual Districts. These limitations shall not apply to spires, cupolas, or similar architectural features of a building occupying in the aggregate not more than 10 percent of the area of such building nor to residential chimneys. Farm silos, municipal water storage tanks, radio or television aerials (excluding wireless telecommunications facilities but including satellite dishes less than 18 inches in diameter providing such dishes are not mounted on a tower), electrical transmission towers, windmills, solar collectors, or similar structures are not required to conform to the height limits of Section 6.

Flagpole heights are limited to the height of the building(s) located on the lot on which the flagpole is located.

5.2.5 Accessory Dwelling Units

Pursuant to Title 24 V.S.A., Chapter 117, Sections 4412(1)(E) and (F), an Accessory Dwelling Unit, as defined in these regulations, is permitted as a use subordinate to a one-family dwelling, provided such accessory dwelling unit meets all applicable requirements of the District and Overlay District, including but not limited to setback, height, area, potable water, coverage, sewer, and parking. Approval of an accessory dwelling unit is contingent upon owner-occupancy of either the principal or accessory dwelling unit as a primary residence. For purposes of this section, owner-occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the principal unit or in the accessory unit. An approved potable water supply and sanitary wastewater system shall be provided. The accessory dwelling unit may be located within the one-family dwelling structure or in an existing or new accessory structure. If creation of the accessory dwelling unit involves the construction of a new accessory structure, an increase in the height or floor area of any existing structure, or an increase in the dimension of a parking area, a site plan review per Section 7 shall be required. Accessory Dwelling Units created by new construction or renovation shall not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater nor exceed two stories in height.

The criteria to convert existing space/building to an ADU shall not be more restrictive than for a single-unit dwelling without an ADU.

Discontinuance of Accessory Dwelling Units. If neither the principal unit nor the accessory unit is owner-occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single-family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

5.2.6 Home Occupations

Customary home occupations shall conform to the following criteria:

a. Customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and

b. Customarily practiced in the community at home; and

c. Carried on by a member of the family residing in the dwelling unit; and

d. Clearly incidental and secondary to the use of the dwelling unit for residential purposes; and

e. Conforms to the following additional conditions:

i. The occupation or profession is carried on wholly within the building or structure;

ii. Not more than two persons outside the family are working on the premises in the home occupation at any point in time;

iii. There is no exterior display or exterior sign except one unlighted identification sign, not more than two square feet in area, no exterior storage of materials, and no other exterior indication of a home occupation or variation from the residential character of the principal building;

iv. No offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;

v. There are no retail sales, unless the items sold are the product of the owner’s own labor, or are incidental to the products of the owner's own labor, or are antiques;

vi. The customary home occupation does not affect the residential character of the neighborhood;

vii. Traffic and parking must satisfy Land Use and Development Regulations requirements;

viii. The occupation utilizes an area not to exceed 40% of the floor area of the principal dwelling unit on the property up to a maximum of 1,500 square feet; a home occupation may be in a dwelling unit or an accessory building. In particular, a home occupation includes, but is not limited to, the following: antique shops, dress making, home cooking, teaching, and the skilled practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, or any other profession or skilled practice carried on within the dwelling occupied by the practitioner. Instructional classes shall be limited to classes in connection with the manufacturing or production of products on the premises or to classes for specific dance, theatrical, gymnastics, exercise, or similar uses.

However, a home occupation shall not be interpreted to include but not be limited to the following: commercial stables and kennels, restaurants, garages, or shops for repair of motor vehicles. A site plan review by the Development Review Board per Section 7 is required of any customary home occupation.

SECTION 6: DISTRICTS

6.1 General

6.1.1 Classes of Districts

For the purposes of these regulations, the Village of North Bennington is divided into the following zoning districts and multi-district areas that overlap some portions of those districts. Requirements for the districts are identified, largely in tabular form, in Section 6 and requirements for the multi-district area are addressed in Sections 8 through 11 of these regulations. The boundaries of all these districts and areas are depicted on the official zoning map, Section 13.

Commentary:

Historically, residential districts were crafted with different dwelling unit densities. In general terms the highest density was planned in the center of the Village, and as the distance from the Center increased, the density would decrease. The regulations used to recognize that compact development in the center of the Village generally requires the provision of public water supply and sewer systems, as well as additional street improvements such as curbs, gutters, storm sewers, sidewalks, and street lighting. These regulations were intended to provide for this compact village type development in areas where such utilities and improvements would be able to be efficiently and economically installed and maintained. Areas remote from the center of the Village were established for a density of development which would permit the permanent use of private on-site water supply and sewage disposal yielding greater economy in the provision of municipal infrastructure.

Due to the widespread existence of groundwater pollution, nearly all dwellings are now served with Village potable water infrastructure. Wastewater infrastructure is not as prevalent, but it serves a large percentage of the Village, as well. As of July of 2023 State Statute has imposed a uniform density of dwelling units per acre wherever dwellings are provided with both potable water and wastewater infrastructure. See Section 11, Category 2 areas. The State mandated uniform density is high. As a result, the differentiation between residential district's densities is no longer supported by State Statute in most of the Village.

As the Village Planning Commission understands it, the State's goal is to increase the opportunity for housing development. In addition to imposition of high dwelling unit density mandates, residential parking requirements have been reduced, rights to appeal have been limited, higher quantity dwelling unit buildings must be permitted, accessory

dwelling units have reduced regulatory requirements, and affordable housing is promoted.

Therefore, it can be anticipated that due to the State's initiative the residential character of the Village will change.

Principal Districts:

Village Residential (VR) Districts

There are five Village Residential districts, all of which have predominantly residential uses and character. As described above, in the past, they differed primarily in their area per dwelling. District VR3 is the only district specifically intended for a mobile home park. Village Residential Districts are intended to provide for development of a variety of housing types (including manufactured homes), densities, and cost levels.

Village Center (VC) District

The Village Center district is located at the heart of the Village extending roughly from Lincoln Square to the US Post Office. The Village Center District is intended to serve as the center of the community, supporting a mix of commercial, residential, and public uses that will enhance the quality of life for residents and provide for their essential needs.

Industrial (I) District

The Industrial district is focused along Paran Creek in areas that historically were the sites of hydro-powered manufacturing. While manufacturing facilities largely still occupy this district, some warehouses have been repurposed for condominiums. As a component of the Village's mixed-use development pattern, this district is intended to promote economically viable redevelopment of historic industrial properties, to improve site design, and to provide and maintain open space and access to waterways.

Village Residential-Professional (VRP) District

A narrow zone along the west side of Water Street, this district is intended for a mix of residential and professional office uses while encouraging development of an attractive streetscape along a major approach to the Village Center.

Educational Campus (EC) District

The portion of Bennington College that is within the borders of the Village constitutes this district. It includes the Music Building, Alumni House, and nearby functions. The

Education Campus District is intended to provide Bennington College with the ability to develop its campus in an attractive and efficient manner. These regulations will allow the College to further develop the campus in accordance with the overall master plan for the college. The master plan shall be maintained in the Village Offices and will provide a clear indication as to the location, size, and use of existing buildings and proposed buildings and lands, as well as the location of existing and planned roads, parking lots, and other infrastructure. Bennington College shall update the master plan periodically and submit any revisions to the Development Review Board for comment and a determination of whether the plan is consistent with the Village Plan. No permit shall be issued for land development in the EC District until a site plan has been approved by the Development Review Board. The Development Review Board may modify certain submission requirements for site plan review depending upon the scope of the project. The Development Review Board may, at its discretion, waive site plan approval when a project or use is substantially consistent with the campus master plan or the proposed project is so minor as to have negligible effect on the review criteria for site plan review.

Any land sold or otherwise transferred to a party not associated with Bennington College and intended for a use not directly related to the college, shall be reclassified as part of the VR-40 Zoning District. The subdivision proposal shall be subject to review by the Development Review Board. As part of said review, Bennington College shall first submit a revised College Master Plan to the Planning Commission for consideration and comment. The Planning Commission shall prepare a report on the effect of the transfer and College Master Plan amendment on the Village Plan and shall consider probable impacts on natural resources and surrounding properties, and on the provision of public services, and shall submit said report to the Development Review Board for inclusion in their subdivision review.

There shall be no buildings, structures, or parking facilities located within 150 feet of any property line. This 150-foot-wide area shall be maintained as a natural vegetated buffer to the maximum extent possible. Any building construction within 200 feet of the boundary of the property (and consequently of the EC District) shall require site plan review by the Development Review Board. Maximum building height is 45 feet.

Sufficient off-street parking shall be provided for all buildings and uses; on-street parking is prohibited. Parking shall be planned to ensure ease and efficiency of access by emergency vehicles.

Conservation District

The Conservation District is intended to provide for limited residential development and natural resource-based uses in a manner that maintains the environmental quality of these unique lands, discourages sprawl, and enhances scenic, open space, and historic qualities of the Village of North Bennington.

Multi-District Overlay Areas (See Sections 8, 9, 10, and 11 of these regulations):

Historic Areas

The purpose of this area, which encompasses areas in several districts, is to reinforce the historic nature of this area of the Village and, as such, has additional requirements that serve that purpose.

Flood Hazard Areas

Additional requirements, largely mandated by the State of Vermont and Federal Government, are placed on that area along the Walloomsac River that is prone to flooding.

Shoreland Areas

Additional requirements are also placed on the shorelands of Lake Paran and Paran Creek.

Municipal Infrastructure Areas

In compliance with State Statute three categories of area are defined, permitting clear boundaries for administration of differing residential density requirements.

6.2 District Regulations

In the following subsections permitted uses and review requirements are addressed in tabular form. For Village Residential Districts see the tables, legends, diagrams, and notes in Section 6.2.1, and for all other districts see the tables, legends, diagrams, and notes in Section 6.2.2. See the Zoning Map for the location of each zoning district (Section 13). **Unless as provided herein, any use not specifically permitted by these regulations shall be deemed to be prohibited.**

6.2.1 Village Residential Districts (VR)

6.2.1.1 Summary Uses Table

Legend:

P = Permitted use, as conditioned by the Zoning Administrator; **S** = An allowable use, as conditioned by the Development Review Board after a Site Plan Review per criteria set forth in Section 7.1; **C** = A potentially allowable use, if allowed and as conditioned by the Development Review Board after a Conditional Use Review per criteria set forth in Section 7.2; **N** = Not Permitted

(Permit Applications must be filed for Uses marked P, S, and C. Please note, while a use may be allowed in a particular location, an application for a development of any type must secure approval from the Zoning Administrator based on the administration of these regulations. See Section 4 for permit procedures.)

USES	**VR-3** (11,14)	**VR-10** (11,14)	**VR-20** (11,14)	**VR-40** (11,14)	**VR-120** (11,14)
AGRICULTURAL USES					
Agriculture	P (6)	P (6)	P (6)	P (6)	P (6)
Agricultural Enterprise	N	N	N	N	N
Silviculture	P (6)	P (6)	P (6)	P (6)	P (6)
COMMUNITY FACILITIES					

USES	**VR-3** (11,14)	**VR-10** (11,14)	**VR-20** (11,14)	**VR-40** (11,14)	**VR-120** (11,14)
Community Facility	P (14)	P (14)	P (14)	P (14)	P (14)
Post Office	S (14)	S (14)	S (14)	S (14)	S (14)
State or Community-Owned Institutions	S (14)	S (14)	S (14)	S (14)	S (14)
CULTURAL FACILITIES					
Centers For Visual or Performing Arts and Related Cultural Facilities	S	S	S	S	S
Library And Related Research	S	S	S	S	S
Museum	S	S	S	S	S
Performing Arts Studio	S	S	S	S	S
DAY CARE USES					
Adult Day Care	S	S	S	S	S
Day Care Facilities	S (2)	S (2)	S (2)	S (2)	S (2)
DEVELOPMENTS					
Cottage Court Developments (Section 12.4)	C	C	C	C	C
Neighborhood Development Area	P	P	P	P	P
Planned Unit Developments (Section 12.2)	C	C	C	C	C
DWELLINGS					

USES	**VR-3** (11,14)	**VR-10** (11,14)	**VR-20** (11,14)	**VR-40** (11,14)	**VR-120** (11,14)
Dwelling, Accessory	P (5)	P (5)	P (5)	P (5)	P (5)
Dwelling, Multi-Family (>6 Units)	C	C	C	C	C
Dwelling, Multi-Family (6 Max. Units)	P	P	P	P	P
Dwelling, Single-Family	P	P	P	P	P
Dwelling, Two-Family	P	P	P	P	P
Group Home	S (3,12,13)	S (3,12,13)	S (3,12,13)	S (3,12,13)	S (3,12,13)
Home Occupation	S	S	S	S	S
Mobile Home Park (3 or More Lots)	P (4)	C (23)	C (23)	C	C
Manufactured Home	P	P (23)	P (23)	P	P
Senior Housing	P	P	P	P	P
EDUCATIONAL USES					
Early Childhood Centers (Certified by DoE)	S (2, 14)	S (2, 14)	S (2, 14)	S (2, 14)	S (2, 14)
Educational Campus (Certified by DoE)	N (14)	N (14)	N (14)	N (14)	N (14)
Educational Facilities (Certified by DoE)	S (14)	S (14)	S (14)	S (14)	S (14)
Nursery School (Certified by DoE)	S (2, 14)	S (2, 14)	S (2, 14)	S (2, 14)	S (2, 14)
School, Private (Certified by DoE)	S (14)	S (14)	S (14)	S (14)	S (14)
School, Public (Certified by DoE)	S (14)	S (14)	S (14)	S (14)	S (14)
ENERGY USES, COMMERCIAL					

USES	**VR-3** (11,14)	**VR-10** (11,14)	**VR-20** (11,14)	**VR-40** (11,14)	**VR-120** (11,14)
Energy Generation Facilities, Hydroelectric, Commercial	N	N	N	N	N
Energy Generation Facilities, Solar, Commercial	N	N	N	N	N
Energy Generation Facilities, Wind Turbine, Commercial	N	N	N	N	N
Fuel Storage	N	N	N	N	N
Utility Power Generation Plants & Transmission Lines	(15)	(15)	(15)	(15)	(15)
ENERGY USES, RESIDENTIAL					
Energy Generation Facilities, Solar, Individual Residential	P	P	P	P	P
Energy Generation Facilities, Wind Turbine, Individual Residential	N	N	N	C	C
INDUSTRIAL					
Contractor’s Yard	N	N	N	N	N
Industrial, Small-Scale and Light Manufacturing	N	N	N	N	N
Scientific Research Laboratories	N	N	N	N	N
Service Buildings	N	N	N	N	N
Waste Facilities, Regional or Hazardous	N	N	N	N	N
Wireless Telecommunication Facility	N	N	N	N	N

USES	**VR-3** (11,14)	**VR-10** (11,14)	**VR-20** (11,14)	**VR-40** (11,14)	**VR-120** (11,14)
LODGINGS					
Bed & Breakfast	S (1)	S (1)	S (1)	S (1)	S (1)
Boarding House	S (1)	S (1)	S (1)	S (1)	S (1)
Congregate Housing	S (1)	S (1)	S (1)	S (1)	S (1)
Dormitories	S	S	S	S	S
Hotel	N	N	N	N	N
Shelter, Emergency	N	N	N	N	N
Short-Term Rental	(16)	(16)	(16)	(16)	(16)
PROFESSIONAL OFFICES					
Medical Clinic	N	N	N	N	N
Office And Administrative	N	N	N	N	N
Licensed Professional Office	N	N	N	N	N
Veterinarian	N	N	N	N	N
RECREATION USES					
Campground	N	N	N	N	N
Horse Stable/Indoor Riding Facility	N	N	N	N	C
Primitive Camp	N	N	N	N	N
Public Park	P	P	P	P	P
Recreational Facility, Indoor	N	N	N	N	N

USES	**VR-3** (11,14)	**VR-10** (11,14)	**VR-20** (11,14)	**VR-40** (11,14)	**VR-120** (11,14)
Recreational Facility, Outdoor	N	N	N	N	N
RETAIL USES					
Art Gallery/Studio	S	S	S	S	S
Farm Stand	S (9)	S (9)	S (9)	S (9)	S (9)
Garage, Yard, and Tag Sales	P (10)	P (10)	P (10)	P (10)	P (10)
Garden Nursery	N	N	N	N	N
Motor Vehicle Repair	N	N	N	N	N
Motor Vehicle Sales	N	N	N	N	N
Gas Station	N	N	N	N	N
Restaurant	N	N	N	N	N
Restaurant, With Drive Through	N	N	N	N	N
Retail	N	N	N	N	N
MISCELLANEOUS USES					
Cemetery	N	N	N	N	S
Churches or other Places of Worship	P (14)	P (14)	P (14)	P (14)	P (14)
Club, Private	N	N	N	N	N
Convents	S (14)	S (14)	S (14)	S (14)	S (14)
Domestic Animal Kennel	N	N	N	N	N
Hospitals, Public or Private	C (14)	C (14)	C (14)	C (14)	C (14)

USES	**VR-3** (11,14)	**VR-10** (11,14)	**VR-20** (11,14)	**VR-40** (11,14)	**VR-120** (11,14)
Miscellaneous Accessory Structures	P	P	P	P	P
Nature Preserves and Conservation Lands	P	P	P	P	P
Non-Retail Cannabis Production	N	N	N	N	N
Parish Houses	P (14)	P (14)	P (14)	P (14)	P (14)
Shipping Containers	N	N	N	P (22)	P (22)
Temporary Structures	S	S	S	S	S

Notes: For notes numbered greater than 10 see Section 6.2.2.1.

1. State licensed or registered bed and breakfasts, inns, rooming houses, or other lodging establishments that provide overnight accommodations to the traveling public, provided that the establishment is owned and operated by the resident family, contains no more than six double occupancy rooms within the dwelling and/or in an accessory structure located on the same lot, and that cooking and eating facilities are not provided for individual units. State Fire Marshal site inspection and approval is mandatory. The facility shall meet the requirements of the Vermont State Health Department's Licensed Lodging Establishment Rule.
2. State licensed or registered day care, day camp, after school, or summer programs, Head Start programs, or other childcare establishments whose primary function is the protection, care, and supervision of children under 16 years of age outside their homes for periods of less than 24 hours a day by a person other than a child's own parent, guardian, or relative.
3. State licensed residential childcare group homes that provide planned programs for behavioral change by qualified staff in 24-hour residential settings. State Fire Marshal site inspection and approval is mandatory. The facility shall meet the requirements of the Vermont State Health Department's Licensed Lodging Establishment Rule.
4. A Mobile Home Park conforming to the following standards:

    a. Site: A mobile home park shall be located on a lot containing not less than 2 acres. The site shall be planned as a unit and shall be well drained and with soil and land conditions suitable, in the judgment of the Development Review Board, for the purpose intended.

    b. Site Development Plan: No mobile home park shall be developed, and no mobile home shall be placed thereon until a site development plan shall have been approved by the Development Review Board. Such plan shall show the boundaries of the lot, distances to nearest intersecting public streets, existing buildings, including buildings on adjoining lots

within 100 feet from the boundaries of the mobile home park, proposed vehicular and pedestrian circulation, parking spaces, sites for all mobile homes, open spaces, landscape details, existing and proposed grades, water supply, fire protection, sewage disposal, and storm drainage, together with any other information which the Development Review Board may require.

c. Design Standards:

i. The maximum number of mobile homes in a mobile home park shall not exceed ten per acre of lot area.

ii. Each individual mobile home shall be located on a lot containing not less than 3,000 square feet and not less than 45 feet wide. No mobile home shall be located within 10 feet from the boundary of its individual lot, and no mobile home shall be located within 50 feet from any boundary of the mobile home park lot.

iii. Each mobile home space shall abut an interior road not less than 22 feet in width. Such roads shall have at least two connections for vehicular travel to and from a public street or streets, located to minimize traffic hazards and congestion.

iv. Parking of any motor vehicle in any part of the 22-foot width of an interior road shall be prohibited and enforced by the park operator. Parking spaces shall be provided for all vehicles customarily or occasionally in the park, but in no case shall less than three car spaces for every two mobile home sites be required. Such car spaces shall average 9 feet wide and 18 feet long with free access to the interior road. Such car spaces shall be on the mobile home lot, in a parking lot, or may be in parking bays contiguous to an interior road, in which case the width of the road and parking space combined shall be not less than 45 feet.

v. All roads shall be adequately lit.

vi. A landscape buffer strip shall be provided along all property and street lines of the mobile home park, not less than 15 feet in width, suitably screened with evergreen plantings, as approved by the Development Review Board.

vii. All mobile homes shall be connected to public water and sewer.

d. Improvements:

i. All roads and parking areas shall be in conformance with municipal street standards.

ii. Waste collection stations shall be provided, as approved by the Development Review Board, located not more than 150 feet from each mobile home site. Waste collection

stations shall consist of enclosures for rubbish and garbage containers and shall be suitably landscaped.

iii. All roads and parking areas, storm drainage, water supply, and sanitary sewer connections to each mobile home site, all electric services, and all required landscaping shall be completed before any mobile home is placed in the mobile home park, except that where landscaping is not completed, the Development Review Board may approve occupancy if the owner of the park shall have filed with the Village Trustees a surety bond in form and amount approved by the Development Review Board to guarantee completion of the work.

e. Operation:

i. The operator of the mobile home park shall maintain all parts of the park in good condition and shall provide for collection and removal of waste and garbage at least twice every week.

ii. The owner of the mobile home park shall remove snow from all roads and shall maintain safe conditions on all roads at all times.

iii. The retail sales of new or used mobile homes is prohibited. The sale of mobile homes other than those sited on an approved lot within the park or other vehicles in connection with the operation of a mobile home park is prohibited. No sale of merchandise and no service business shall be carried on within the lot occupied by a mobile home park, except that the Development Review Board may approve the establishment of a self-service laundry or similar service for use by occupants of the mobile home park only.

f. Compliance and Penalty:

Compliance with all the provisions of this subsection, and the operation and maintenance of services and landscaping, shall be construed to be the requirements of lawful occupancy, and failure to comply shall be considered a violation of the Land Use and Development Regulations, and subject to the penalties provided by law.

5. See Section 5.2.5
6. Agricultural uses and practices as defined by the Secretary of Agriculture, Food, and Markets.
7. Accepted silvicultural practices as defined by the Commission of Forests, Parks and Recreation.
8. See Section 5.2.6
9. Temporary and seasonal roadside stands for sale of produce primarily from the land where the stand is to be located, provided that:

a) The stand shall remain in place and operation for a period not exceeding four months per year. The stand will be dismantled and stored away from public view after the end of the season of operation.
b) The use will not create a nuisance or alter the essential residential character of the property or the surrounding area.
c) The stand shall not be erected within the established front yard areas and shall be set back at least 20 feet from all side and rear property lines.
d) Produce may not be displayed within 20 feet of any property line. All displays shall be dismantled and removed daily from public view.
e) Temporary signs must be installed on the property and must be removed daily from public view. Signs also are subject to review under the Village Sign Ordinance and shall be installed so as not to create a hazardous vehicle or pedestrian condition.
f) Adequate off-street parking shall be provided so as not to create a hazard for vehicular or pedestrian traffic.
g) The use shall not be construed to permit the operation of permanent commercial establishments or for shipping or selling agricultural products of origination off the property.

10. Garage, yard, or tag sales conducted outdoors without permanent structures by the resident of the premises and clearly as an accessory use on a residential site, provided that:
    a. Merchandise shall be limited to items of personal property such as antiques, furniture, handicrafts, household goods, toys, or clothing.
    b. Such sales may occur on no more than four occasions in any calendar year, each occasion lasting no more than 36 hours.
    c. Merchandise may be displayed within the front yard, but all merchandise shall be removed from public view at the end of the event.
    d. No heavy equipment, large machinery or tools, motor vehicles or trailers or materials associated with the residents' place of business shall be sold.
    e. Parking shall be controlled in a manner that will not create a hazardous condition for vehicles or pedestrians.
    f. Temporary signs are restricted to the lot where the sale is occurring, shall be displayed only during the sale, and shall not create a hazardous condition for vehicles or pedestrians.

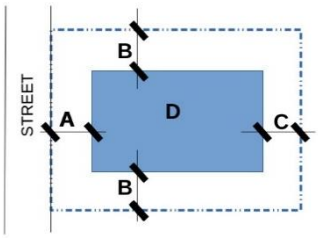
6.2.1.2 Summary Requirements Tables and Diagrams

General Requirements	Districts				
	VR-3	**VR-10**	**VR-20**	**VR-40**	**VR-120**
Lots and Density					
Lot Area per Dwelling Unit if within Municipal Infrastructure Overlay Area Category 2 (See Section 11)	1/7 Acre Min.	1/5 Acre Min.	1/5 Acre Min.	1/5 Acre Min.	1/5 Acre Min.
Lot Area per Affordable Dwelling Unit if within Municipal Infrastructure Overlay Area Category 2 (See Section 11)	1/7 Acre Min.	1/7 Acre Min.	1/7 Acre Min.	1/7 Acre Min.	1/7 Acre Min.
Lot Area per Dwelling Unit if outside Municipal Infrastructure Overlay Area Category 2 (See Section 11)	3,000 sq. ft. min.	10,000 sq. ft. min.	20,000 sq. ft. min.	40,000 sq. ft min.	120,000 sq. ft. min.
Lot Width	44 ft Min.	62 ft Min.	62 ft Min.	62 ft Min.	62 ft Min.
Density of Principal Structures on Individual Lots	7 Principal Structures/ Acre Max.	(2)	(2)	(2)	(2)
Building Size and Massing					
Footprint, Principal (Max.)	1,200 sq. ft.	2,000 sq. ft.	2,000 sq. ft.	2,000 sq. ft	2,000 sq. ft
Footprint, Accessory (Max.)	80% of Principal	80% of Principal	120% of Principal	150% of Principal	150% of Principal
Frontage Type					
Open Space	Permitted	Permitted	Permitted	Permitted	Permitted
Yard	Permitted	Permitted	Permitted	Permitted	Permitted
Porch	Permitted	Permitted	Permitted	Permitted	Permitted
Fence	Not Permitted	Not Permitted	Not Permitted	Permitted	Permitted
Stoop	Permitted	Permitted	Permitted	Permitted	Permitted
Forecourt	Not Permitted	Permitted	Permitted	Permitted	Permitted
Gallery	Not Permitted	Permitted	Not Permitted	Not Permitted	Not Permitted
Arcade	Not Permitted	Permitted	Not Permitted	Not Permitted	Not Permitted

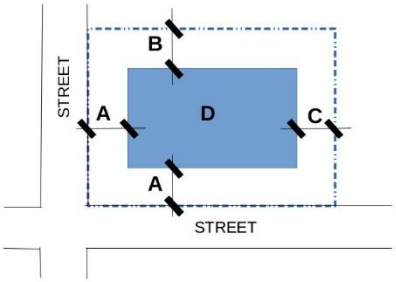
Note: (1) All dimensions in feet. (2) 5 dwelling units or 7 affordable dwelling units per acre max.(rounded up) if within Municipal Infrastructure Overlay Area Category 2 (Accessory Dwelling Units are not calculated as independent dwelling units); otherwise 1 principal structure per 3,000 square feet in VR3, 10,000 square feet in VR10, per 20,000square feet in VR20, 40,000 square feet in VR40, and 120,000 square feet in VR120.

Setbacks	Diagrams Letters	Districts				
		VR3	**VR10**	**VR20**	**VR40**	**VR120**
Front Yard Setback (Min.)	A	10 (3)	15 (1)	30	30	30
Side Yard Setback (Min.)	B	10 (3)	15 (2)(3)	15(3)	15(3)	15(3)
Rear Yard Setback (Min.)	C	10 (3)	20	20	30	40
Potential Building Zone	D					

(1) For mixed use buildings dimension may be reduced to align with existing adjacent mixed-use buildings. (2) Side Yard may be reduced to 10 feet when exterior walls are created with a 2-Hour fire-rated assembly and 5 feet when exterior walls are created with a 4-Hour fire-rated assembly (3) Min. dimension shall be 22 feet if yard is used for vehicle driveway or parking.



SETBACK DIMENSIONS (Mid-Block Lot)

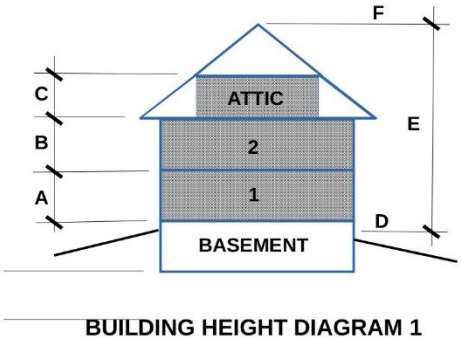


SETBACK DIMENSIONS (Corner Lot)

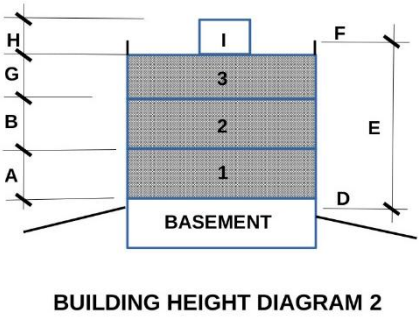
6.2.1.3 Building Height Requirements

Dimension Description	**Diagrams Letter**	**Districts** (1)									
		VR3		**VR10**		**VR20**		**VR40**		**VR120**	
		Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
Principle Structure											
Level 1 (Flr to Flr)	A	(2)	12	(2)	15	(2)	12	(2)	12	(2)	12
Level 2 (Flr to Flr)	B	(2)	10	(2)	10	(2)	10	(2)	10	(2)	10
Attic Level	C	(2)	(8)	(2)	(8)	(2)	(8)	(2)	(8)	(2)	(8)
Average Elevation of Exposed Building (6)	D										
Height of Building	E		24		38 (3, 4,5)		35 (4)		35 (4)		35 (4)
Top of Highest Sloped Roof or Parapet	F										
Level 3 (Mixed Use Bldg.) (Flr to Flr)	G			(2)	10						
Max. Height of Stair to Roof Enclosure and Screened Mechanical Equipment	H				9		9		9		9
Accessory Structure											
Level 1 (Flr to Flr)	J	(2)	10	(2)	10 (10)	(2)	12 (10)	(2)	12 (10)	(2)	12 (10)
Level 2 (Flr to Flr)	K	(2)	10	(2)	10	(2)	10	(2)	10	(2)	10
Average Elevation of Exposed Building (6)	L										
Height of Building	M		(7)		(7)		(7)		(7)		(7)
Highest Point of Roof	N										

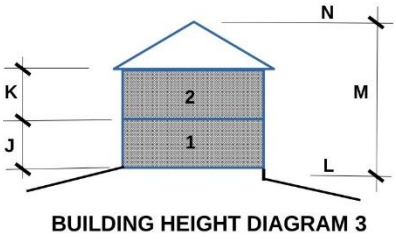
Notes: (1) All dimensions in feet. (2) Establish the dimension in conformance with the Vermont State Building Code. (3) Two Stories Min. (4) Residential: 2 ½ Stories Max. (5) Mixed Use with at least 1 level as residential: 3 Stories Max. (6) Measured at each corner of the building (7) Two Stories Max.(8) Max. Attic Height determined by roof pitch; roof pitch not to exceed 45 degrees; (9) Max. height of affordable dwelling buildings may be extended by one floor provided the building meets all requirements of the Vermont Fire Safety and Building Code in effect at the time of the permit application; (10) Where no second level is planned, Level 1 floor to underside of finished ceiling or low point of exposed roof structure may be increased to 20 feet.



BUILDING HEIGHT DIAGRAM 1



BUILDING HEIGHT DIAGRAM 2



BUILDING HEIGHT DIAGRAM 3

6.2.2 Districts VC, VRP, I, EC, CONS

6.2.2.1 Summary Uses Table

Legend:

P = Permitted use, as conditioned by the Zoning Administrator; **S** = An allowable use, as conditioned by the Development Review Board after a Site Plan Review per criteria set forth in Section 7.1; **C** = A potentially allowable use, if allowed and as conditioned by the Development Review Board after a Conditional Use Review per criteria set forth in Section 7.2; **N** = Not Permitted

(Permit Applications must be filed for Uses marked P, S, and C. Please note, while a use may be allowed in a particular location, an application for a development of any type must secure approval from the Zoning Administrator based on the administration of these regulations. See Section 4 for permit procedures.)

USES	**VC** (11,14)	**VRP** (11,14)	**I** (14)	**EC** (14)	**CONS** (14)
AGRICULTURAL USES					
Agriculture	P (6)	P (6)	P (6)	P (6)	P (6)
Agricultural Enterprise	N	N	N	N	P
Silviculture	P (6)	P (6)	P (6)	P (6)	P (6)

USES	**VC** (11,14)	**VRP** (11,14)	**I** (14)	**EC** (14)	**CONS** (14)
COMMUNITY FACILITIES					
Community Facility	P (14)	P (14)	P (14)	P (14)	P (14)
Post Office	S (14)	S (14)	S (14)	S (14)	S (14)
State or Community-Owned Institutions	S (14)	S (14)	S (14)	S (14)	S (14)
CULTURAL FACILITIES					
Centers For Visual or Performing Arts and Related Cultural Facilities	S	S	S	S	S
Library And Related Research	S	S	S	S	S
Museum	S	S	S	S	S
Performing Arts Studio	S	S	S	S	S
DAY CARE USES					
Adult Day Care	S	S	S	S	S
Day Care Facilities	S (2)	S (2)	S (2)	S (2)	S (2)
DEVELOPMENTS					
Cottage Court Developments (Section 12.4)	C	C	C	C	C
Neighborhood Development Area	P	P	P	P	P

USES	**VC** (11,14)	**VRP** (11,14)	**I** (14)	**EC** (14)	**CONS** (14)
Planned Unit Developments (Section 12.2)	C	C	C	C	C
DWELLINGS					
Dwelling, Accessory	P (5)	P (5)	P (5)	P (5)	P (5)
Dwelling, Multi-Family (>6 Units)	C	C	P (20)	P	N
Dwelling, Multi-Family (6 Max. Units)	P	P	P (20)	P	P
Dwelling, Single-Family	P	P	P	P	P
Dwelling, Two-Family	P	P	P	P	P
Group Home	S (3,12)	S (3,12)	S (3,12,20)	S (3,12)	S (3,12)
Home Occupation	S	S	S	S	S
Mobile Home Park (3 or More Dwellings)	N	C (23)	C	P	C
Manufactured Home	P (23)	P (23)	P	P	P
Senior Housing	P	P	P	P	P
EDUCATIONAL USES					
Early Childhood Centers (Certified by DoE)	S (2, 14)	S (2, 14)	S (2, 14)	S (2, 14)	S (2, 14)
Educational Campus (Certified by DoE)	N (14)	N (14)	N (14)	P	N (14)
Educational Facilities (Certified by DoE)	S (14)	S (14)	S (14)	S (14)	S (14)
Nursery School (Certified by DoE)	S (2, 14))	S (2, 14))	S (2, 14))	S (2, 14))	S (2, 14))
School, Private (Certified by DoE)	S (14)	S (14)	S (14)	S (14)	S (14)

USES	**VC** (11,14)	**VRP** (11,14)	**I** (14)	**EC** (14)	**CONS** (14)
School, Public (Certified by DoE)	S (14)	S (14)	S (14)	S (14)	S (14)
ENERGY USES, COMMERCIAL					
Energy Generation Facilities, Hydroelectric, Commercial	N	N	C	N	N
Energy Generation Facilities, Solar, Commercial	N	N	C	N	N
Energy Generation Facilities, Wind Turbine, Commercial	N	N	N	N	N
Fuel Storage	N	N	C	N	N
Utility Power Generation Plants & Transmission Lines	N	(15)	C	N	N
ENERGY USES, RESIDENTIAL					
Energy Generation Facilities, Solar, Individual Residential	P	P	P	P	P
Energy Generation Facilities, Wind Turbine, Individual Residential	N	N	N	N	N
INDUSTRIAL					
Contractor’s Yard	N	N	C	P	N
Industrial, Small-Scale and Light Manufacturing	N	N	C	N	N
Scientific Research Laboratories	N	N	C	C	N

USES	**VC** (11,14)	**VRP** (11,14)	**I** (14)	**EC** (14)	**CONS** (14)
Service Buildings	N	N	C	P	N
Waste Facilities, Regional or Hazardous	C	C	C	C	C
Wireless Telecommunication Facility	N	N	N	P	N
LODGINGS					
Bed & Breakfast	S (1)	S (1)	N	N	N
Boarding House	S (1)	S (1)	N	N	N
Congregate Housing	S (1)	S (1)	N	N	N
Dormitories	S	S	S (20)	P	N
Hotel	S (18)	S (18)	S (18)	P	N
Shelter, Emergency	S (17, 19)	S (17, 19)	S (17, 19)	P	N
Short-Term Rental	(16)	(16)	(16)	(16)	(16)
PROFESSIONAL OFFICES					
Medical Clinic	N	S	S (21)	P	N
Office And Administrative	S	S	S (21)	P	N
Licensed Professional Office	S	S	S (21)	P	N
Veterinarian	N	N	S (21)	P	N
RECREATION USES					

USES	**VC** (11,14)	**VRP** (11,14)	**I** (14)	**EC** (14)	**CONS** (14)
Campground	N	N	N	N	N
Horse Stable/Indoor Riding Facility	N	N	N	S	S
Primitive Camp	N	N	N	N	N
Public Park	P	P	P	N	S
Recreational Facility, Indoor	N	S	S	S	N
Recreational Facility, Outdoor	N	S	S	S	N
RETAIL USES					
Art Gallery/Studio	S	S	S (21)	S	N
Farm Stand	S (9)	S (9)	S (9)	N	N
Garage, Yard, and Tag Sales	P (10)	P (10)	P (10)	N	N
Garden Nursery	N	N	S	N	N
Motor Vehicle Repair	N	N	S	N	N
Motor Vehicle Sales	N	N	S	N	N
Gas Station	S	S	S	N	N
Restaurant	S	S	S (21)	N	N
Restaurant, With Drive Through	N	N	N	N	N
Retail	S	S	S (21)	N	N
MISCELLANEOUS USES					

USES	**VC** (11,14)	**VRP** (11,14)	**I** (14)	**EC** (14)	**CONS** (14)
Cemetery	N	N	N	S	S
Churches or other Places of Worship	P (14)	P (14)	P (14)	N	N
Club, Private	S	S	S	N	N
Convents	S (14)	S (14)	N	N	N
Domestic Animal Kennel	N	N	N	N	N
Hospitals, Public or Private	C (14)	C (14)	C (14)	N	N
Miscellaneous Accessory Structures	P	P	S	P	P
Nature Preserves and Conservation Lands	P	P	P	P	P
Non-Retail Cannabis Production	N	N	C	P	C
Parish Houses	P (14)	P (14)	N	P	N
Shipping Containers	N	N	P (22)	P (22)	N
Temporary Structures	S	S	S	P	S

Notes: For notes numbered 1-10 see Section 6.2.1.1.

11. Roof-mounted solar arrays permitted; ground-mounted solar arrays require site plan review.
12. A residential care or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in Title 9 V.S.A. Section 4501, shall be considered to constitute a permitted single-family residential use of property, but no such home shall be permitted if located within 1,000 feet of another existing or permitted residential care home or group home. State Fire Marshal site inspection and approval is mandatory. The facility shall meet the requirements of the Vermont State Health Department’s Licensed Lodging Establishment Rule.
13. A state licensed or registered family childcare home serving six or fewer children shall be considered to constitute a permitted single-family use of property. A state licensed or registered family childcare home serving six or more children is permitted in the VRP District.

14. See Section 2.1 for uses may only be regulated with respect to location, size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities, traffic, noise, lighting, and landscaping or screening requirements.
15. Per 30 VSA Section 248, these regulations do not apply to these uses.
16. Short-Term Rentals lodgings (STRs): Consult the Village Ordinance regarding this use.
17. Emergency shelters' hours of operation may not be restricted. Appeals of permit approvals may not be based on impacts to the character of the Village.
18. Hotels shall not be prohibited or penalized for renting rooms to provide housing assistance through the State of Vermont's General Assistance program, or to any person whose room is rented with public funds. In this subsection, the term "hotel" has the same meaning as in 32 V.S.A. 9202(3). These regulations shall not prevent the conversion of an existing hotel or motel into permanent dwelling units.
19. This use 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.
20. Dwelling units may be permitted within existing historic (constructed prior to 1950) industrial buildings and within existing accessory buildings (constructed prior to 2005 and sharing a physical and functional connection to an existing historic industrial building) provided that:

    (a) Separate entryways are provided so that residential uses and industrial uses do not share common doorways, hallways, or stairways.

    (b) There is no exterior expansion of any historic industrial building other than minor additions to provide for improved access, stairways, balconies, or similar structures, or for architecturally compatible infill construction within interior courtyards or other open areas, and the construction maintains the essential historic integrity of the building.

    (c) Vertical additions (i.e., no increase in building footprint or coverage other than for minor additions for improved access, stairways, balconies, or similar structures) to existing accessory buildings (as described in this section) are permitted provided the additions are consistent with the architectural character of the related historic industrial building and that all other requirements of these regulations are satisfied.

    (d) No dwelling unit shall have a floor area less than required for safe exiting and beneficial use of the space.

    (e) Dwelling units shall be sited and constructed to minimize any potential disturbance to residents from smoke, fumes, noise, odors, or dust and from any hazard detrimental to public health emanating from an industrial use within the building.

(f) A minimum of 1 parking space shall be provided for each dwelling unit or individually occupied room, and residential parking areas shall be clearly marked as such and located as close to the corresponding entryway as possible; parking on adjacent properties is permitted with a valid legal agreement. [Providing 1.5 parking spaces per dwelling unit, while not required, may be prudent.]

(g) Residents of the dwelling units shall be provided access to open space on the property and to lands adjoining Paran Creek.

(h) All dwelling units shall be connected to public water and sewer systems.

(i) There is no minimum lot area for dwelling units constructed within historic industrial buildings.

21. Retail sales of goods produced on the site and closely related items only, professional offices, and restaurants located within historic (constructed prior to 1950) industrial buildings, are subject to the following standards:

(a) These uses shall be restricted to existing buildings, although minor additions may be constructed to provide for improved access, stairways, balconies, and for architecturally compatible infill construction within interior courtyards or other open areas, and the construction maintains the essential historic integrity of the building. Outdoor seating areas for restaurants also are permitted;

(b) The proposed use is compatible with the existing and planned uses of the building, considering location, design, and potential disturbances related to industrial use;

(c) The essential historic integrity of the building is maintained, while encouraging innovative design and use of materials to promote effective adaptive reuse of the building;

(d) The use and development is consistent with the Village Plan;

(e) Adequate and safe vehicle parking and ingress and egress are provided;

(f) Safe and convenient pedestrian access and circulation are provided;

(g) Adequate open space, landscaping, walkways, and lighting shall be provided. Lighting shall be adequate for safety and security, but shall not result in excess light or glare. Public access shall be provided to any open space areas bordering Paran Creek.

(h) One parking space shall be provided for every 250 square feet of floor area for retail or professional use, and one space for every 3 seats plus one space for each employee for restaurants.

22. See Section 5.1.14 for duration and location limitations.

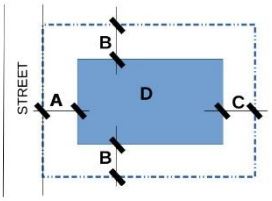
23. Manufactured homes located in the Historic Overlay Area shall be limited to those that conform to all applicable District design requirements.

6.2.2.2 Summary Requirements Tables and Diagrams

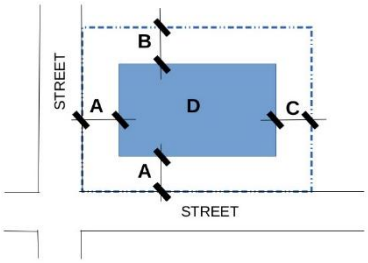
General Requirements	**Districts**				
	VC	**VRP**	**I**	**EC** (3)	**CONS**
Lots and Density					
Lot Area per Dwelling Unit if within Municipal Infrastructure Overlay Area Category 2 (See Section 11)	No Min.	No Min.	1/5 Acre Min. (20)		1/5 Acre Min.
Lot Area per Affordable Dwelling Unit if within Municipal Infrastructure Overlay Area Category 2 (See Section 11)	No Min.	No Min.	1/7 Acre Min. (20)		1/7 Acre Min.
Lot Area per Dwelling Unit if outside Municipal Infrastructure Overlay Area Category 2 (See Section 11)					200,000
Lot Width	62 ft Min.	62 ft Min.	62 ft Min.		62 ft Min.
Density of Principal Structures on Individual Lots	(2)	(2)	(2)		(2)
Building Size and Massing					
Footprint, Principal (Max.)	3,000 sq. ft	3,000 sq. ft.	2,575 sq. ft.		2,575 sq. ft.
Footprint, Accessory (Max.)	80% of Principal	80% of Principal	80% of Principal		80% of Principal
Frontage Type					
Open Space	Permitted	Permitted	Permitted		Permitted
Yard	Permitted	Permitted	Permitted		Permitted
Porch	Permitted	Permitted	Permitted		Permitted
Fence	Not Permitted	Not Permitted	Permitted		Permitted
Stoop	Permitted	Permitted	Permitted		Permitted
Forecourt	Permitted	Permitted	Permitted		Permitted
Gallery	Permitted	Permitted	Not Permitted		Not Permitted
Arcade	Permitted	Permitted	Not Permitted		Not Permitted

Note: (1) All dimensions in feet. (2) 5 dwelling units or 7 affordable dwelling units per acre max.(rounded up) if within Municipal Infrastructure Overlay Area Category 2 (Accessory Dwelling Units are not calculated as independent dwelling units); otherwise 1 principal structure per 10,000 square feet in VRP, per 20,000 square feet in I, 40,000 square feet in CONS. (3) See 6.1.1 Educational Campus District.

Setbacks	Diagrams Letters	Districts				
		VC	**VRP**	**I**	**EC** (4)	**CONS**
Front Yard Setback	A	30 (2)	30 (2)	30 (2)		40
Side Yard Setback	B	15 (3)	15 (3)	20		20
Rear Yard Setback	C	20	20	30		30
Maximum Potential Building Zone	D					



SETBACK DIMENSIONS
(Mid-Block Lot)



SETBACK DIMENSIONS
(Corner Lot)

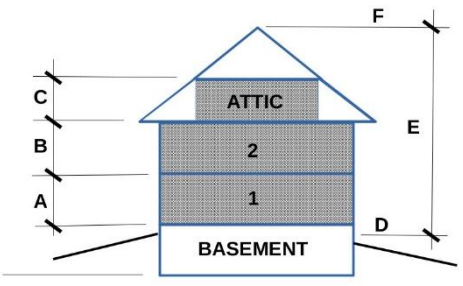
Note: (1) All dimensions in feet. (2) For mixed use buildings only may be reduced to align with existing adjacent mixed-use buildings. (3) Side Yard may be reduced to 5 feet when exterior walls fire-rated to four hours. (4) See 6.1.1 Educational Campus District.

SECTION 6: DISTRICTS

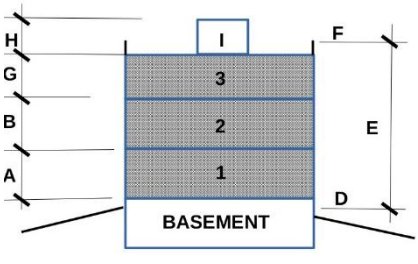
6.2.2.3 Building Height Table and Diagrams

Dimension Description	**Diagrams Letter**	**Districts** (1)									
		VC		**VRP**		**I**		**EC**		**CONS**	
		Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
Principle Structure											
Level 1 (Flr to Flr)	A	(2)	15	(2)	15	(2)		(2)		(2)	12
Level 2 (Flr to Flr)	B	(2)	10	(2)	10	(2)		(2)		(2)	10
Attic Level	C	(2)		(2)		(2)		(2)		(2)	
Average Elevation of Exposed Building (6)	D										
Height of Building	E		38 (3, 4,5)		38 (3, 4,5)		35 (4)		45		35 (4)
Top of Highest Sloped Roof or Parapet	F										
Level 3 (Mixed Use Bldg.) (Flr to Flr)	G	(2)	10	(2)	10						
Height of Stair to Roof Enclosure and Screened Mechanical Equipment	H		9		9		9				9
Accessory Structure											
Level 1 (Flr to Flr)	J	(2)	12 (8)	(2)	12 (8)	(2)	12 (8)	(2)		(2)	12 (8)
Level 2 (Flr to Flr)	K	(2)	10	(2)	10	(2)	10	(2)		(2)	10
Average Elevation of Exposed Building (6)	L										
Height of Building	M		30 (7)		30 (7)		30 (7)				30 (7)
Highest Point of Roof	N										

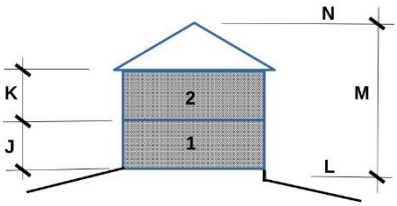
Notes: (1) All dimensions in feet. (2) Establish the dimension in conformance with International Residential Code. (3) two Stories Min. (4) Residential: 2 ½ Stories Max. (5) Mixed Use with at least 1 level as residential: 3 Stories Max. (6) Measured at each corner of the building (7) Two Stories Max.; (8) Where no second level is planned, Level 1 floor to underside of finished ceiling or low point of exposed roof structure may be increased to 20 feet.



BUILDING HEIGHT DIAGRAM 1



BUILDING HEIGHT DIAGRAM 2



BUILDING HEIGHT DIAGRAM 3

SECTION 7: PROJECT REVIEW CRITERIA

This section addresses the standards that will be used by the Development Review Board for three types of reviews: Site Plan and Conditional Use. All reviews shall ensure equitable distribution of environmental benefits and burdens.

7.1 Projects Requiring Site Plan Reviews

7.1.1 Purpose

This section identifies the performance standards for projects requiring Site Plan Reviews. See Section 6 for uses requiring Site Plan Reviews. Uses identified as requiring Site Plan Reviews are those uses which are permitted in the districts identified. If the permit application is approved, the Development Review Board may encumber the permit with conditions as they see fit to preserve the integrity of the Village Plan. See Section 4.3 for permit procedures.

7.1.2 Compatibility

Projects shall be compatible with their setting and context as determined by their arrangement, building bulk, form, design, landscaping character, and operation. The project shall create or retain appropriate transitions to surrounding properties and shall create or retain appropriate buffers with adjacent properties. The proposed project shall not interfere with the use of or access to renewable energy resources on surrounding properties.

Buildings and modifications to existing buildings shall be designed in a manner that is compatible with and does not stand in contrast to nearby historic structures (and other existing structures, if applicable) when compared with building scale, massing, materials, orientation, and rhythm of openings (fenestration). Large expanses of undivided glass and/or monolithic walls are prohibited.

Buildings shall not be designed to function as advertisements through the use of garish color schemes; internal illumination of roofs, facades or awnings; oversized display windows; the integration of over-sized logos and advertising features into the building's design; or formulaic or homogenous architectural design based on a national standard for a particular business or franchise that is not consistent with historic building types and designs typical of North Bennington.

Buildings, and associated site design, shall reinforce and/or create, rather than destabilize, a defined streetscape by being located as close to the front setback as practical; orienting buildings to front upon the road; and, where the placement of a building along the front setback is not practical due to preexisting site conditions, the incorporation of landscaping features, such as low walls and

planting materials, along the setback line to create a transition between the public right-of–way and the site.

The proposed project shall not result in undue adverse impacts beyond the property line that would reduce the quality of life of the natural environment in the area including:

1. Sound. Uses shall comply with the Village of North Bennington sound ordinance.

2. Vibration. No clearly apparent vibrations transmitted through the air or the ground when discerned at the property line without the aid of instruments is permitted.

3. Airborne Particulates and Odors. Activities resulting in the accumulation of noticeable and damaging airborne particulates on neighboring properties are prohibited. Activities that generate noxious odors or gases detectable at neighboring properties are prohibited, agricultural processes excepted.

4. Hazardous Storage. The storage of any hazardous, highly reactive, or highly flammable substances in quantities that significantly endanger any neighboring properties is prohibited.

7.1.3 Vehicular Access and Circulation

The proposed project shall provide vehicular access from the public road and within the site that will not create unsafe conditions for drivers, bicyclists, or pedestrians, and will allow adequate access for service and emergency vehicles. All bridges and culverts on the emergency vehicle access path shall be, without distortion or failure, capable of bearing the weight of the anticipated emergency vehicles. Where the vehicular access is longer than 120 feet from the public road, an emergency vehicle turn around may be required. National Cooperative Highway Research Program standards may be applied by the Development Review Board.

7.1.4 Parking and Loading

The proposed development shall have an adequate, but not an excessive amount of parking. See Section 5.1.8 for representative regulations. Proposed parking shall be designed and located to minimize its aesthetic and environmental impacts. Adequate space shall be provided for service vehicles and functions.

7.1.5 Pedestrian Access and Circulation

The proposed project shall provide pedestrian access within the site, to the entrances of any structures, and through the site to adjacent properties and along roads as appropriate given the development configuration and location. Access for people with disabilities and impaired mobility shall be in accordance with applicable state and federal laws.

7.1.6 Landscaping and Screening

The proposed development shall provide landscaping and screening to enhance the appearance of the property and roadscape. Service areas and utility equipment areas shall be screened from public view. Buffers shall be provided as necessary to mitigate adverse impacts on surrounding properties.

Tree Plantings

Maximum effort shall be made to save existing trees, especially those that are mature or determined to be of special horticultural or landscape value, during all phases of site development and construction. The Board may require that existing trees to be saved shall be replaced with large tree specimens (up to 6” caliper) in the event of death during or after site development.

Landscaping plans shall emphasize the use of both deciduous and coniferous shade trees in available yard area, especially front and side yards and parking areas. Shade trees may be required to be placed to interrupt the facades of buildings, to visually reduce the scale and bulk of large buildings, to integrate the site with the surrounding landscape, and to enhance environmental quality (e.g., wildlife habitat, soil stabilization, air quality, energy conservation). Shade trees are especially important in instances where street trees are not practical because of site constraints. Only indigenous species are permitted.

Landscaping plans shall emphasize the use of street trees along road frontage in commercial districts, and along well-traveled roads. In instances where a planting strip is required along road frontage, or where front yard area is available for planting along the edge of the right-of-way, at least one street tree shall be planted for each thirty linear feet (30') of landscaping strip or frontage (excluding driveways).

In the event that the Village has developed a street tree plan, the Development Review Board may require that tree planting be consistent with that plan.

Flowering ornamental trees should be used to complement shade trees in instances where large yard areas exist, and where space limitations prevent the planting of shade trees.

Screening

Projects shall provide sufficient screening when the Development Review Board determines that adequate screening is not provided by topographical or other barriers. Screening shall be required in the following cases:

1. where more intensive land uses are proposed to abut less intensive uses;
2. adjacent to garbage collection and utility areas, satellite antennas, outdoor storage, and loading and unloading areas and other outdoor utilities and facilities;
3. when the project adversely impacts adjacent properties (e.g., lighting, outdoor storage, etc.);
4. and when contiguous land uses and activities will adversely impact on the development (e.g., roads or incompatible uses).

Screening should provide a year-round visual screen, particularly from public roads. A diversity of materials should be used to create an interesting, naturalized screen rather than a large expanse of uninterrupted, uniform material. Materials may include fencing, shade trees, evergreen and flowering shrubs, rocks, mounds or combinations thereof to achieve the same objectives.

Arrangement of screening shall provide protection to adjacent properties and avoid damage to existing plantings.

Parking Area Landscaping

Within and contiguous to parking areas, landscaping shall emphasize the use of shade trees to provide a tree canopy, provide separation between parking spaces to avoid large expanses of parking and minimize the visibility of parking areas from off-site. Suitable locations for shade trees include walkways, in center islands, in between parking spaces and clustered in appropriate locations. Parking shall be bordered with a buffer area landscaped in a manner that integrates the parking area together with the overall landscaping plan for the site, reduces the visibility of the parking area from off-site, provides suitable locations for shade trees.

All landscaping in parking lots and on the street frontage shall be placed so that it will not obstruct visibility when moving from the parking area onto the road. All plantings shall be maintained, and adequate provision made for snow removal from parking spaces and lanes.

Landscape Maintenance & Survival

All plantings shall be installed according to accepted horticultural standards. Plant species should be hardy for zone four (4) or hardier as defined in University of Vermont Extension Service's "Landscape Plants for Vermont". Sizes of trees and plantings shall be appropriate in terms of function and size.

Dead and dying plants and trees shall be replaced by the owner at the next planting season or within one year of death. No buildings, structures, storage or materials, or parking shall be permitted within defined buffer or landscaped areas and such areas shall be maintained and kept free of debris.

The Development Review Board may require that adequate surety, in the form of a letter of credit, performance bond or escrow account, be secured to ensure the completion of the landscaping. The Board shall have the option of using such surety to complete the work if the applicant, for any reason, does not finish the landscaping by the time specified as a condition of receiving a certificate of completion for the project.

7.1.7 Stormwater and Snow Storage

The proposed project shall manage stormwater and snow storage to minimize the amount of runoff generated and use permeable surfacing to maximize infiltration to limit adverse impacts on adjacent properties. Significant adverse impacts on adjacent properties may result in fines, as determined by the Village Trustees, until the adverse impacts are remediated. The area to be disturbed and the amount of natural vegetation to be cleared shall be minimized.

7.1.8 Outdoor Lighting

The outdoor lighting associated with the project shall be designed, located, and used to provide the minimum amount of lighting needed to create a safe environment for human activity per the Illuminating Engineering Society of North America (IESNA). Avoid increasing pre-existing illumination levels beyond areas of outdoor activities; prevent glare by shielding light sources; and minimize energy use.

7.1.9 Energy Conservation

The proposed project shall minimize energy usage by employing applicable energy-saving approaches that may include high-efficiency building techniques, siting, landscaping, and renewable energy generation.

7.2 Projects Requiring Conditional Use Reviews

7.2.1 Purpose

The purpose of this section is to identify the performance standards for projects required to have Conditional Use Reviews. See Section 6 for uses requiring Conditional Use Reviews. Uses identified as requiring Conditional Use Reviews may or may not be permitted by the Development Review Board in the districts identified. This Section identifies the criteria that will be applied by the Development Review Board. If a permit application is approved, the Development Review Board may encumber the permit with conditions as they see fit to preserve the integrity of the Village Plan. See Section 4.3 for permit procedures.

7.2.2 Requirements of Site Plan Reviews

The requirements of Section 7.1 apply to all conditional use projects.

7.2.3 Character of the Area

The proposed project shall not alter the existing or planned character of the area as defined by the purpose of the applicable zoning district and the land use goals and policies of the *North Bennington Village Plan* in a manner that limits, impairs, or precludes the future use or development of nearby property as allowed under these regulations.

7.2.4 Suitability and Capability

The site shall be capable of accommodating the proposed project as determined by its size, shape, location, topography, drainage patterns, and landscape features. The proposed project shall not require substantial modification of the parcel's natural topography, drainage patterns, and landscape features beyond that which would be expected for the proposed use irrespective of its location.

7.2.5 Traffic

The proposed project shall not generate traffic that would have an undue adverse impact on the condition, capacity, safety, and function of the Village's transportation infrastructure.

7.2.6 Protection of Natural Resources and Open Space

The proposed project:

1. shall be appropriately located, scaled, and designed to not cause undue adverse impact to significant natural resources, consume an excessive amount of open space or working land, and/or unnecessarily fragment continuous blocks of open space on working land.
2. shall not interfere with existing public open space or recreational uses of, or access to neighboring properties.
3. shall be designed and located to maintain any pre-existing public open space or recreational uses or access on the subject property to the extent that is physically feasible and compatible with future use.
4. shall follow the recommendations provided in any required natural resource inventory or study to protect identified natural resources.

7.2.7 Community Public Services

The proposed project shall not cause an unreasonable burden on the Village's ability to provide community services including, but not limited to, education, public safety, emergency response, stormwater management, and road maintenance.

7.3 Additional Information

Depending on the scope of the project the Development Review Board may require additional information to permit a comprehensive assessment of the project. The additional information may include but is not limited to:

1. Forest Management, tree removal, and vegetation management plans;
2. Stormwater management and erosion management plans;
3. Visual impact analysis;
4. Traffic impact analysis;

5. Community services impact assessments;
6. Open space management plans;
7. Site reclamation plans;
8. Habitat impact assessments.

SECTION 8: HISTORIC AREA - MULTI-DISTRICT DESIGN STANDARDS

8.1 Purpose

The Historic Area is intended to provide the Planning Commission and Development Review Board with a consistent tool for reviewing and approving any new development within the district. At the same time, it will provide property owners within the district a guide to development practices which are in keeping with the character of the Village and will provide design and development standards and guidelines which will help preserve the character of the Village. This section also is intended to establish a process that will facilitate communication and understanding between property owners and the Development Review Board, thereby simplifying the review process.

8.2 Incentives

The Village of North Bennington has been designated an official Village Center under the State of Vermont's Downtown Program. The Village Center designation provides tax incentives to encourage the preservation and restoration of historic buildings within its district. These incentives include:

1. Vermont Income Tax Credit for substantial rehabilitation of certified historic buildings within the district.
2. Vermont Income Tax Credit for code improvements to commercial buildings.
3. Priority consideration for the State's Municipal Planning Grant program and consolidated plan for HUD funding (including the Community Development Block Grant program).

The State Buildings Department will give consideration and priority to designated Village Center locations when leasing or constructing buildings, in consultation with the community.

8.3 Definitions

For the purposes of this section, the term historic shall mean any structure which is cataloged as part of the Historic Register within the Historic Area, and/or any element (such as a stone wall or

fence) which is deemed by the Development Review Board to have historic value to the community.

8.4 Properties and Geographic Areas Affected

The design standards included in this section apply to any of the following within the Village Historic Area:

Residential Properties (Section 8.6): All new home construction, including additions which are greater than 50 percent of the habitable floor area of the existing home, and accessory buildings in excess of 250 square feet. Other additions or modifications to residential properties are exempt from these requirements, but are encouraged to use these standards as general design recommendations whenever possible.

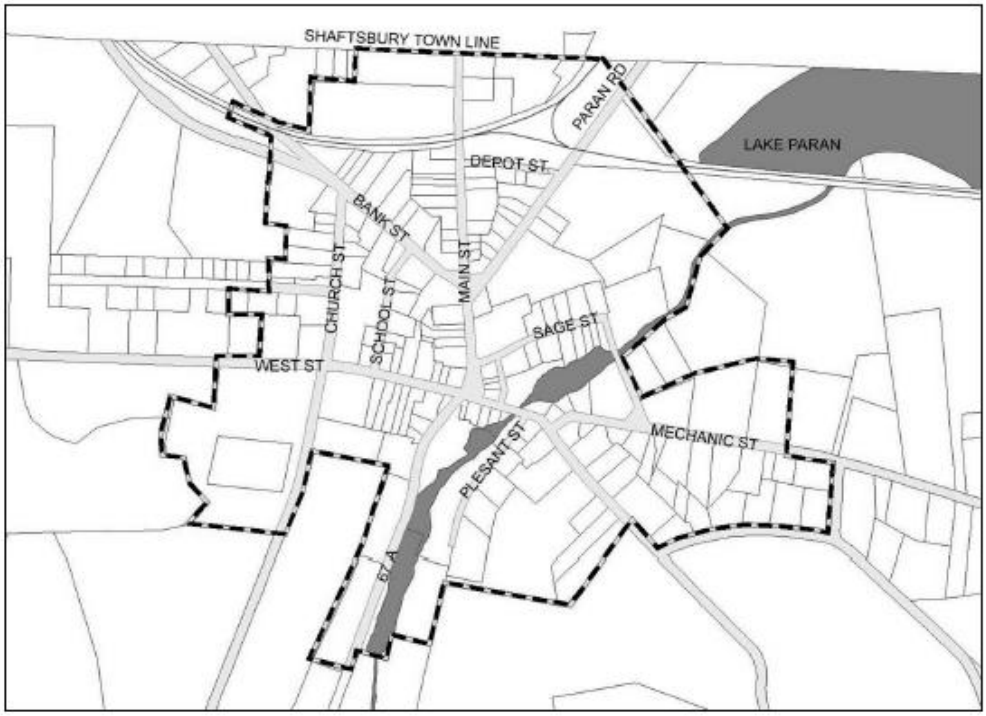
Commercial Properties (Section 8.7): All new construction, additions, or exterior alterations to existing buildings, including a change of exterior materials, colors, or site plan configuration.

These standards also apply to commercial or residential structures that are rebuilt in the event of a loss due to fire or other destruction unless it is determined by the Development Review Board that the new construction is significantly similar in overall design and appearance to the structure being replaced. The Development Review Board cannot require property owners to rebuild to architectural standards that would raise construction costs above the amount of insurance money received for such a loss.

Specific requirements of this section may be waived by the Development Review Board if it is determined that the nonconforming elements of the design meet the spirit and intent of the design standards.

The standards outlined in this section are not retroactive, applying only to changes within the district after the date that these standards have been adopted in the Village Land Use and Development Regulations. The boundaries of the Historic Area, and the Village Center District within it, are illustrated in Figures 1 and 2, respectively. The use and dimensional requirements of the zoning district in which any property is located apply in addition to the standards and guidelines of this section.

Figure 1: The approximate boundary of the Historic District. Contact Village for official maps or zoning designations for individual lots.



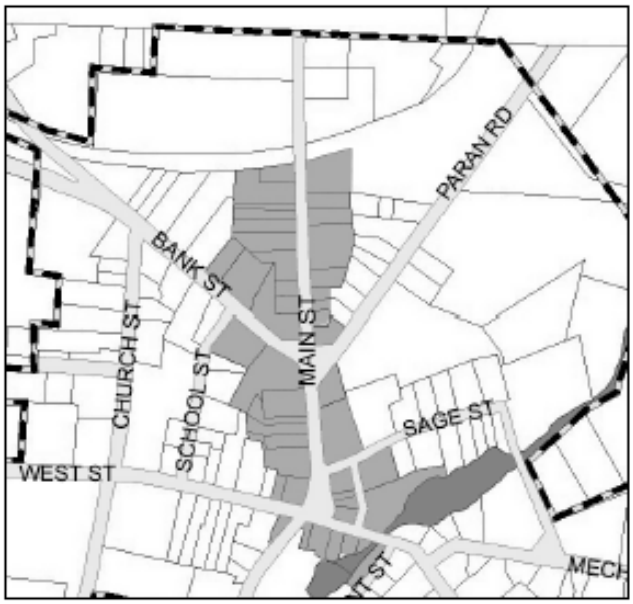


Figure 2: Village Center shaded in light gray.

8.5 Process

Any property owners within the Historic Area who wish to undertake work covered in Section 8.4 should consult these regulations to guide their design prior to commencing any work. The property owners must follow the requirements of Section 4 of these regulations.

8.6 Residential Design Standards for New Construction and Substantial Additions

8.6.1 General Requirements

1. Preserve and rehabilitate existing historic structures within the Village whenever possible, rather than replacing them with new structures. The demolition of any historic structure within the district without Development Review Board approval is prohibited.

2. Protect existing historic structures by constructing additions to them that are generally similar in style and character to the original building.

3. Encourage architectural designs that work together with neighboring buildings as a whole to reinforce the existing historic character of the neighborhood and reinforce the prominence of the existing "Village Center" as a discernible center of the community.

8.6.2 Site Planning and Landscaping

1. New construction must work with and take design cues from the surrounding buildings and environment, rather than act as a stand-alone design entity.

2. New construction must be built up near the front of the lot and should attempt to align with the front setback of neighboring buildings on the street as much as possible. [A in Fig. 3] In the event of a significant difference between neighboring setbacks, the new construction must align with the existing structure that is closest to the street or as directed by the Development Review Board.

3. The front façade(s) of new construction should be kept parallel to the street or front lot

line. [B in Fig. 3]

4. New residential construction within the Village Center District should place as much of the building width at the front of the lot to maximize front façade exposure and define the street edge. [C in Fig 3]

5. The primary building entry must always be placed at the front of the building, facing the street. If it is not possible to place the building entry directly on the front façade, it should be placed so as to be readily visible from the public way.

6. Garages and similar accessory buildings should be set back far from the road toward the rear of the site to minimize visibility from the public way. [D in Fig. 3] If possible, garage bay doors should be located and oriented so that they are not immediately visible from the street. [E in Fig. 3]

7. New residential driveways and curb cuts should only be one lane wide near the front of the site. If additional driveway width is required to access a multi-bay garage or parking area, the driveway may be widened in back to accommodate this. [F in Fig. 3] Such areas should be reserved for the rear of the site behind the primary building and screened from view from the street.

8. Identify any existing historic features on the site such as stone or brick walkways, foundations, stone walls, and iron or wood fences. These features should be shown on all plans during site plan review. Maintain these features in good condition and try to incorporate them into any new site plan configuration. The removal or relocation of such existing historic features is prohibited without Development Review Board approval.

9. Identify any existing trees on the property survey that have a caliper of 8 inches or more. These trees should be shown on all plans during site plan review. Attempt to incorporate these existing trees into new site plan development to reduce waste and salvage older trees. Provide grass, trees, shrubs, flowers and similar landscaping in new site development, particularly in the front and highly visible areas of the property. [H in Fig. 3]

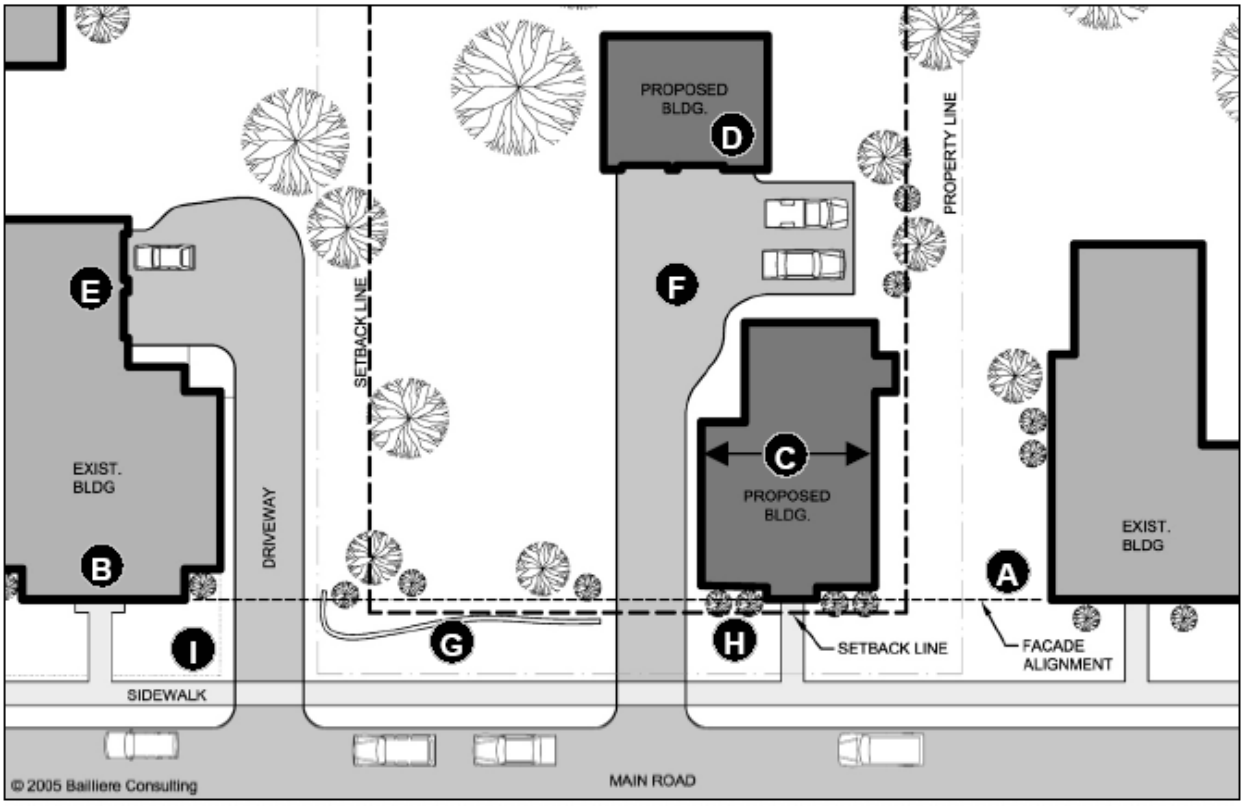


Figure 3: Residential Site Planning

8.6.3 Height and Roof Design

1. New construction should attempt to match the general roof designs of adjacent buildings. For example, if the adjacent structures have sloped roofs, the new building ideally should have sloped roofs as well. The pitch of the primary roofs (not including dormers, entry canopies or similar elements) should generally match the roof pitch found on neighboring buildings as well.

2. New construction with sloped roofs should have a roof pitch of no less than 6:12 on primary roof areas (not including dormers, entry canopies or similar elements) or a maximum pitch of 12:12.

3. Additions to existing buildings should attempt to match the roof style, slope, materials and eave profile of the original building.

4. New construction with sloped roofs should place the primary facade as a gable-end facing the street, or have at least one area of facade as a gable-end facing the street which constitutes the full height of the building. [A in Fig. 9]

5. New construction with sloped roofs should have overhangs at the eave and gable ends of the roof at least 6 inches deep.

6. The Development Review Board may require new construction which has a large amount of sloped roof running parallel to the street to include the use of dormers along the street side to help reduce the overall scale of the roof.

7. New flat roof structures should be capped by a parapet that is a sculptural expression of the primary façade material or wood. [A in Fig. 7]

8. The Development Review Board may require large roof areas to be broken up into smaller portions with breaks and fluctuations in the overall roof surface.

9. Dormers, breaks in the roof line, entry roofs or other designs should be used to draw attention to the primary building entry [E in Fig. 9]

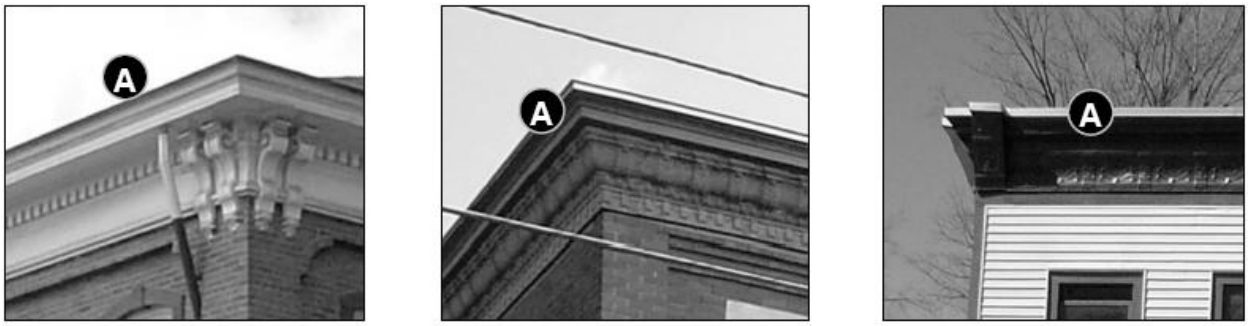


Fig. 7: Acceptable parapet design. The images above illustrate acceptable parapet designs for flat roof buildings. Parapets should be a sculptural expression of the façade which provides a "cap" to the building overall.

Fig. 8: Unacceptable parapet design. The images above illustrate unacceptable parapet designs for flat roof buildings. These examples show designs which are too thin and lack depth.

elopment Regulations

Fig. 9: Roof Design. The many different roof elements seen here help to break up and reduce the scale of an otherwise large house.

8.6.4 Scale and Massing

1. The scale and massing of new construction must be sympathetic to the scale and massing of neighboring structures.

2. Overall building mass should be broken up into distinct parts by changes in the roof line and fluctuations in the plane of the facade to help create architecture which is more residential in scale. Primary massing elements of new construction should be no more than 40 feet wide, when measured along the front facade, without a transition to a different sized mass. Such transitions shall be defined as:

a) A change in roof height which measures at least 18 vertical inches, [A in Fig 10] or

b) A change in the plane of the facade that measures at least 24 horizontal inches in depth [B in Fig. 10]

3. New construction should use similarly sized building materials and wall openings as those found on structures in the immediate area.

4. Natural, smaller scale materials should be used, most importantly near the front of building and in pedestrian areas. Larger scale materials, if necessary, should be reserved for the rear of buildings and out of sight from the street.

5. Subtle facade articulations and designs that can create a more interesting façade are strongly encouraged (i.e., brickwork patterns or decorative wood trim) especially in highly visible areas. Areas not visible from the street may remain relatively simple, if necessary.

6. Large areas of blank wall are prohibited on the front facade areas.

7. Front porches are encouraged especially where porches are found on neighboring buildings. In lieu of a formal porch entry, a small entry roof that matches the design of the primary roof can be provided.

8. Any new additions governed by section 8.6 to an existing residence should follow these massing guidelines:

a. The new addition should clearly maintain the original form of the existing building without blurring the line between old and new. [Figure 15]

b. The new addition should ideally step back from the plane of the existing facade so that it clearly illustrates where the original building ends and the new addition begins. [Figure 17]

c. The roof line of the new addition should ideally step down from the plane of the existing roof. [Figure 15]

8.6.5 Proportioning and Rhythm

1. Design elements of new construction must be in keeping with the proportions of similar design elements on adjacent structures whenever possible.

2. The relative proportions of design elements such as windows, bays or columns in a structure should be kept consistent throughout the design. Design elements which are part of an addition to an existing building must be consistent with the proportions found in the original design. [Figure 34]

3. Vertically oriented proportions (those which tend to be taller than they are wide) used throughout a design are recommended over square or horizontally proportioned elements. Strong horizontal influences in a design such as overly bold fascias or repeated banding patterns are prohibited.

4. The proportion of structural elements such as posts or columns must be appropriate to the weight they appear to be carrying. [Figure 19]

5. The facade rhythm (spacing of windows or bays) on additions to existing structures should match the rhythm of the original building as closely as possible. The façade rhythm of new construction should attempt to be in keeping with the rhythm found on adjacent structures.

6. The use of an easily recognizable and regular pattern on the façade is recommended.

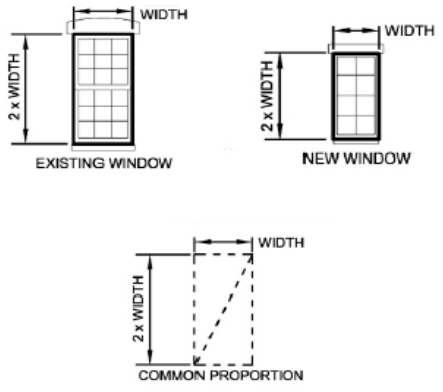


Fig. 34: Common proportions.

8.6.6 Fenestration, Doors, and Windows

1. Storm doors on new residential construction with inappropriate ornament like scalloped edges around the glass, curving metal grilles, eagles, imitation hinges, and x- shaped bottom panels are prohibited. [A in Fig. 22] Storm doors should be constructed of wood, or painted aluminum.

2. Storm windows and doors should be properly installed so that they are recessed inside the outer window trim. [Fig. 23 & 25] Storm windows and doors mounted directly onto the face of the trim are prohibited [B in Figure 22]. Storm windows and doors should be constructed of wood or painted aluminum. Bare aluminum frames are prohibited. [C in Fig. 22]

3. Window shutters should be used on any new additions to buildings which are currently using shutters. The shutters should attempt to match the general style of those on the original building and should be used consistently on all facades. Additions to buildings which do not have shutters should avoid placing them on the windows of the new construction.

4. Window shutters, if used, should be properly mounted on both sides of a window so as to give the appearance that they would completely cover the opening when shut. Shutters mounted on only one side of a window, or on either side of a wide window, are prohibited. [A in Fig. 24]

5. Imitation shutters constructed of plastic, vinyl or other synthetic materials are prohibited on new residential construction within the Historic District.

6. The amount of fenestration (size of window openings, fluctuations and depth) in a facade on a new addition should be in keeping with the facade of the existing building whenever possible.

7. New residential construction must demonstrate ample articulation in the plane of the façade to be in keeping with the articulation found in neighboring buildings. Very flat, planar façade designs are prohibited.

8. Window types on new construction should complement the types found on adjacent historic structures. Double-hung windows with simulated divided-lites are encouraged. Casement windows, picture windows and snap-in simulated window grills are prohibited on the front facade of new residential construction or additions.

9. The size of individual windows on the front facade of new residential construction should be no more than 4 feet wide and separated by at least 24 inches. [A in Fig 35] Clusters of up to three individual windows may be grouped together provided that they are separated from each other by at least 6 inches of trim and the total width does not exceed 12 feet in length. [B in Fig. 35]

10. Wood trim found around the door and window frames of new residential construction should use a wider trim dimension at the head than is used on the sides. [C in Fig. 35]

11. Covered porches and similar recessed front entry areas are encouraged on new construction. Uncovered porches or patios are prohibited on the front facade.

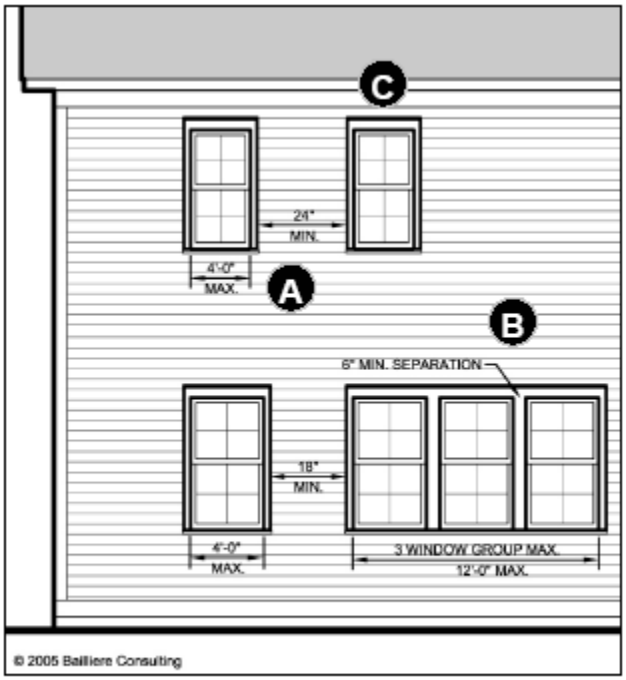


Fig. 35: Maximum window sizes for new residential construction.

8.6.7 Materials and Colors

1. See Section 8.7.9 for a listing of recommended and prohibited exterior building materials within the Historic District. The Development Review Board must approve all materials and colors.

2. Whenever possible, use building materials that are commonly found in the adjacent historic structures and surrounding area.

3. The materials and colors used in new construction should complement the materials and colors found on adjacent buildings.

4. The materials and colors used in additions should complement or match those found on the original structure.

5. Exterior colors should be of a natural, muted shade.

6. When using multiple colors on the exterior of the building, one color should be used as the dominant theme, with the other colors used more sparingly to create accents.

7. Brighter, more vibrant colors, if used, should generally be reserved for minor accents and highlights only, and should be used sparingly.

8. Smaller scale, natural materials such as brick or wood clapboard are required on new residential construction.

9. The use of a variety of design styles or materials across the different facades of the same building is prohibited.

10. Special patterns used every now and then in the façade or roofing material are highly encouraged in new construction. [Fig. 27]

11. When making a transition from one material to the next, the change should occur at a hard edge or bump-out in the façade to help create a surface for the first material to terminate into before the second one begins.

8.7 Commercial Standards

8.7.1 Commercial Design Standards

All new commercial construction, additions, or exterior alterations to existing commercial buildings, including a change of exterior materials, colors, or site plan configuration on any property within the Historic District must conform to the following standards.

8.7.2 General Requirements

1. Preserve and rehabilitate existing structures within the Village whenever possible, in lieu of replacing them with new structures. The demolition of any historic structure within the district without Development Review Board approval is prohibited.

2. Protect existing historic structures by constructing additions which are generally similar in style and character to the original.

3. Encourage architectural designs which work together with neighboring buildings as a whole to reinforce the existing historic character of the neighborhood and reinforce the prominence of the existing Village Center as a discernible community center.

4. Limit the negative impacts of motor vehicle use, such as large parking areas.

5. Provide and maintain safe pedestrian access separated from motor vehicle passage and encourage safe vehicle speeds.

8.7.3 Site Planning and Landscaping

1. New construction must work with and take design cues from the surrounding buildings and environment, rather than act as a stand-alone design entity.

2. New construction must be built up near the front of the lot and should attempt to align with the front setback of neighboring buildings as much as possible. [A in Fig. 3] In the event of a significant difference between neighboring setbacks, the new construction must align with the existing structure that is closest to the street. Alternately, the new construction should align with both neighboring buildings by providing a 'jog' or 'step' in the plane of the new front façade, or as directed by the Development Review Board. [A in Fig. 3]

3. The front façade(s) of new construction should be kept parallel to the street or front lot line. [B in Fig. 3]

4. New construction within the Village Center District should place as much of the building width at the front of the lot to maximize front façade exposure and define the street edge. [C in Fig 3] The Development Review Board may require additional landscaping or screening to help visually reinforce this line. [D in Fig 3]

5. Corner lots in the Village Center District should try to place as much building mass near the intersection as possible to define the corner. [E in Fig. 3]

6. The primary building entry must always be placed at the front of the building, facing the street. If it is not possible to place the building entry directly on the front façade, it should be placed to be readily visible from the public way.

7. Commercially public areas such as retail space within the Village Center District should be placed near the front of the site. Less public areas and utilitarian functions such as warehouses, storage, service, dumpsters or loading dock areas should be placed at the rear of the building and shielded from view as directed by the Development Review Board. [F in Fig. 3] Such facilities should not be readily visible from the street or adjacent residential properties.

8. Garages and similar accessory buildings should be set back far from the road towards the rear of the site to minimize visibility from the public way. If possible, garage bay doors should be located and oriented so that they are not immediately visible from the street.

9. Off-street parking, if provided, must be placed at the side or rear of the lot and screened from view as directed by the Development Review Board. [G in Fig. 3] No off-street parking is permitted closer to the road than the front façade on commercial properties.

10. Commercial lots used for the purposes of selling or repairing motorized vehicles such as automobiles, trucks, motorcycles, tractors, farm or similar equipment may maintain an area outside in the front of the premises for the display of no more than one such vehicle at a time. All additional vehicles, including those under repair, should be kept in the side or back of the lot and screened from view from neighboring properties and the street.

11. Commercial properties must minimize the amount of curb cuts by having a single driveway in and out of the property. Secondary curb cuts from side roads may be permitted on larger commercial projects with approval by the Development Review Board.. [H in Fig. 3]

12. Adjacent commercial parking areas and properties should attempt to share a common driveway, curb cut, trash facility, or service area when site conditions allow.

13. Curb cuts and driveways should only be as wide as necessary to accommodate needed travel lanes. Curb radii should be kept to a 5-foot maximum

SECTION 8: HISTORIC AREA - MULTI-DISTRICT DESIGN STANDARDS

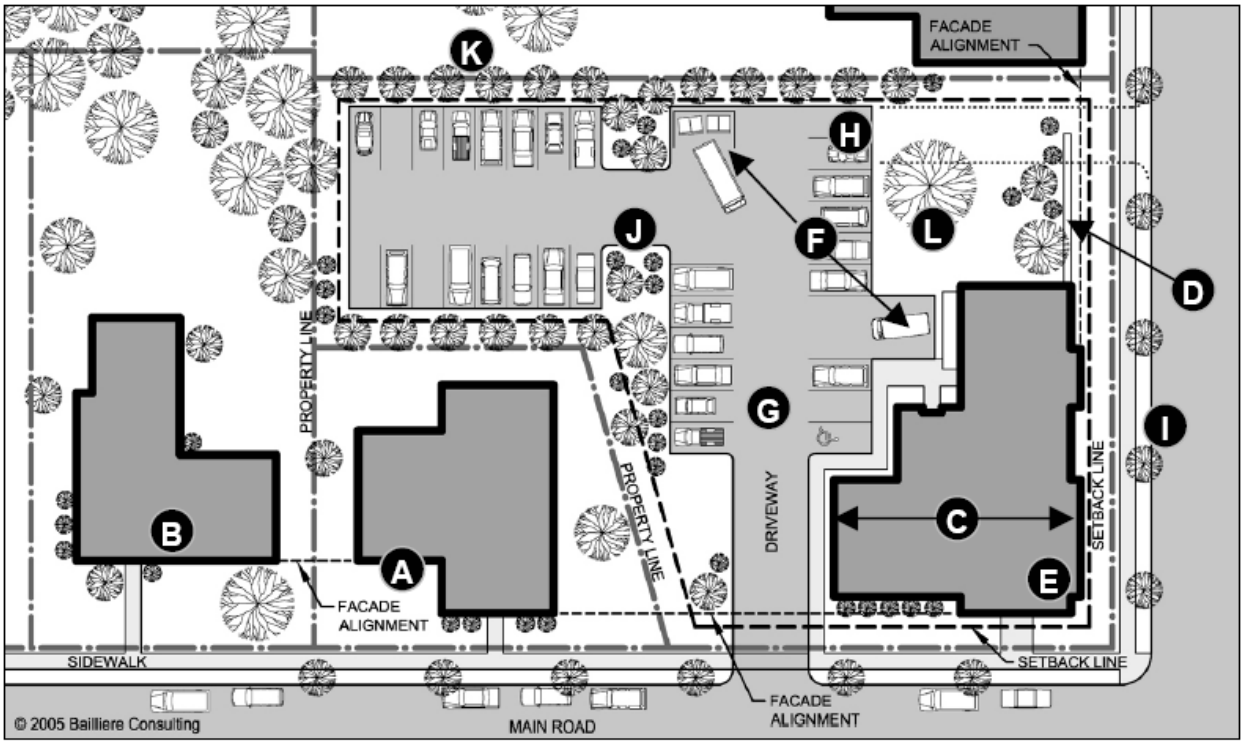
14. New commercial developments must provide sidewalks along all road frontages of the property with a direct link to the primary building entry and any parking areas as directed by the Development Review Board.

15. New commercial developments must provide street trees and street lighting along all road frontages no less than every 50 feet on center [I in Fig. 3] or as directed by the Development Review Board.

16. All public access ways on commercially developed sites should comply with the Americans with Disabilities Act.

17. Parking lots and similarly paved areas should be designed in regular, rectangular shapes to only create as much paved/impervious surface area as absolutely necessary.

18. Parking areas should be broken up into groups of no more than 20 spaces per area maximum. These areas should be separated from each other with landscaping as directed by the village review board. [J in Fig. 3]



Site Planning and Landscaping Standards for Commercial Use

19. Provide trees, fences, walls, or landscaping and other screening to shield parking and service areas from adjacent lots as directed by the Development Review Board. [K in Fig.3]

20. Landscaped islands and other required green space should be consolidated into larger lawn areas. Narrow strips of grass or landscaping are discouraged.

21. Provide grass, trees, shrubs, flowers and similar landscaping in new site development, particularly in the front and highly visible areas of the property.

22. Chain link fences are prohibited in all areas except the rear yard of the property. Painted board, picket fences, stone walls, or similar designs in keeping with a historic neighborhood should be used in the front of the site instead.

23. Identify any existing historic features on the site such as stone or brick walkways, foundations, stone walls, iron or wood fences. These features should be shown on all plans during site plan review. Maintain these features in good condition and try to incorporate them into any new site plan configuration. The removal or relocation of such existing historic features is prohibited without approval of the Development Review Board. Figure 4. Most of the Village Center consists of buildings which are prominently place close to the road and have no large parking lots visible to detract from the architecture.

24. Identify any existing trees on the property survey which have a caliper of eight inches or more. These trees should be shown on all plans during site plan review. Attempt to incorporate these existing trees into new site plan development to reduce waste and salvage older trees. [L in Fig. 3]

Most of the Village Center consists of buildings that are prominently placed close to the road and have no large parking lots visible to detract from the architecture.

8.7.4 Height and Roof Design

1. Maintain and repair historic or original roof forms, shapes, materials, patterns and colors in lieu of replacement with new construction whenever possible.

2. The addition of new dormers, gables or modified roof slopes to an existing historic building should be reserved for the rear or less visible sides of the structure.

3. The roof of any building within the Village Center District is expected to meet the sky gracefully and be in keeping with the overall scale of the structure itself.

4. Shed roofs, fake roof fronts, built-out roof frames which are hung from the facade and similar applied designs are prohibited as primary roof types within the Village Center District. [Figure 5]

5. New construction within the Village Center District must be a minimum of two stories (28 feet) tall at the front of the building lot, but may step down in back. This second story area must be composed of habitable space-not the product of a false façade design. The second story requirement may be waived by the Development Review Board for certain hazardous uses if it determines that a second floor occupancy would present an undue burden in meeting the fire or distance separations required by code.

6. The maximum parapet height is 4 feet unless required otherwise by code. Maximum building height is three stories (48 feet).

7. Commercial flat-roofed buildings of two or more stories should use subtle divisions that help to differentiate the base, middle, and top portions of the structure. [Figure 6]

8. New construction should attempt to match the general roof designs of adjacent buildings. For example, if the adjacent structures have sloped roofs, the new building ideally should have sloped roofs as well. The pitch of the primary roofs (not including dormers, entry canopies or similar elements) should generally match the roof pitch found on neighboring buildings as well.

9. New construction with sloped roofs should have a roof pitch of no less than 6:12 on primary roof areas (not including dormers, entry canopies or similar elements) or a maximum pitch of 12:12.

10. New construction with sloped roofs should place the primary facade as a gable-end facing the street or have at least one area of façade as a gable-end facing the street which constitutes the full height of the building. [A in Fig.9]

11. New construction with sloped roofs should have overhangs at the eave and gable ends of the roof at least 6” deep. [B in Fig. 9]

12. The Development Review Board may require new construction which has a large amount of sloped roof running parallel to the street to include the use of dormers along the street side to help reduce the overall scale of the roof.

13. New flat roof structures should be capped by a parapet that is a sculptural expression of the primary façade material or wood. [A in Fig. 7]

14. The Design Review Board may require large roof areas to be broken up into smaller portions with breaks and fluctuations in the overall roof surface. [C in Fig. 9]

15. New roofs must be designed to divert the fall of rain and snow away from pedestrian areas such as walkways and doors. [D in Fig. 9]

16. Dormers, breaks in the roof line, entry roofs or other designs should be used to draw attention to the primary building entry. [E in Fig. 9]

17. Air handling units, condensers, condensers, satellite dishes, and other equipment placed on the roof must not be visible from the street but should be located or screened by building elements so they are shielded from sight.

18. The Development Review Board may require roof mounted equipment to be visually minimized with painted colors and finish complementary to the overall building design.

19. Gas station canopies should be designed to match or integrate with the roof of the primary building.

Example of a roof design prohibited within the Village Center District

8.7.5 Scale and Massing

1. The scale and massing of new construction must be sympathetic to the scale and massing of neighboring structures.

2. Overall building mass should be broken up into distinct parts by changes in the roof line and fluctuations in the plane of the facade to help create architecture which is more residential in scale. Primary massing elements of new construction should be no more than 40 feet wide, when measured along the front facade, without a transition to a different sized mass. Such transitions shall be defined as:

a) A change in roof height which measures at least 18 vertical inches, [A in Fig 10] or

b) A change in the plane of the facade which measures at least 24 horizontal inches in depth. [B in Fig. 10]

3. New construction of relatively larger commercial structures are required to further break up their primary façade(s) into various massing elements to help reduce the overall scale of the building using similar transitions as those noted in 9.4.4.2. These can be usedto highlight entry points, exits, specialty areas, or separate places of business. [D in Fig. 10]

4. New construction should use similarly sized building materials and wall openings as those found on structures in the immediate area. [C in Fig. 10]

5. Natural, smaller scale materials should be used most importantly near the front of building and in pedestrian areas. Larger scale materials, if necessary, should be reserved for the rear of buildings and out of sight from the street.

6. Large scale design features, such as garage doors, are prohibited near the front of the building, except as required for emergency service buildings. Garage doors, loading docks, and similar large-scale elements must instead be placed at the side or rear of the building or lot.

7. Subtle facade articulations and designs that can create a more interesting façade are strongly encouraged (i.e., brickwork patterns or decorative wood trim) especially in highly visible areas. Non-public areas that are not readily visible may instead remain relatively simple.

8. Large areas of blank wall should be avoided, or should be reserved for the side or rear of buildings in the Village Center District. The Development Review Board may require such areas of blank wall be accentuated with design accents such as pilasters or other façade articulations if they are readily visible from the public way.

9. Front porches are encouraged, especially where porches are found on neighboring buildings. In lieu of a formal porch entry, a small entry roof which matches the design of the primary roof can be provided.

10. The infill, enclosure, or demolition of existing historic porches is prohibited.

11. New additions to existing historic buildings should follow these massing guidelines.

    a) The new addition should clearly maintain the original form of the existing building without blurring the line between old and new. [Figure 15]

    b) The new addition should ideally step back from the plane of the existing facade so that it clearly illustrates where the original (historic) building ends and the new addition begins. [Figure 17]

    c) 3. The roof line of the new addition should ideally step down from the plane of the existing (historic) roof. [Figure 15]

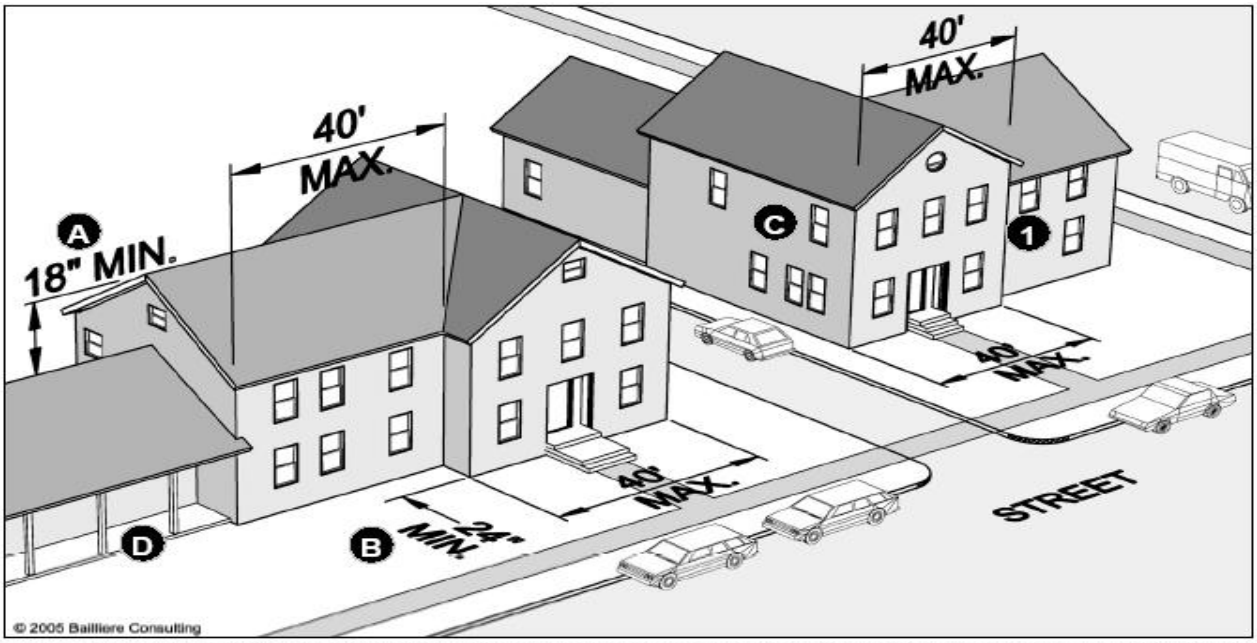


Fig. 10: The individual massing of a new building should be broken down into parts which are similar in size to those of the surrounding buildings. Changes in the plane of the façade or roofline help to break the mass into smaller parts, giving the architecture a more residential scale in keeping with the Village character.

Fig. 11 (Left): The historic train depot is an example of a grand building with small scale character.

Fig. 12: The boxy design of the local Post Office is an example of the simplified massing that the Village wants to avoid.

Fig. 13 (Left): The large porch and recessed entry ways on these buildings help to define the smaller scale massing of the architecture.

Fig. 14: Existing Building Before Addition.

Fig. 15: Proper Addition To Existing Building – This addition preserves the original scale and massing form of the older building, while still appearing to match the original character. The new addition is distinctly separate from the original building, and the line between old and new is visible.

Fig. 16: Improper Addition To Existing Building – This addition blurs the line between the old and the new construction and the original scale and massing of the original design is lost.

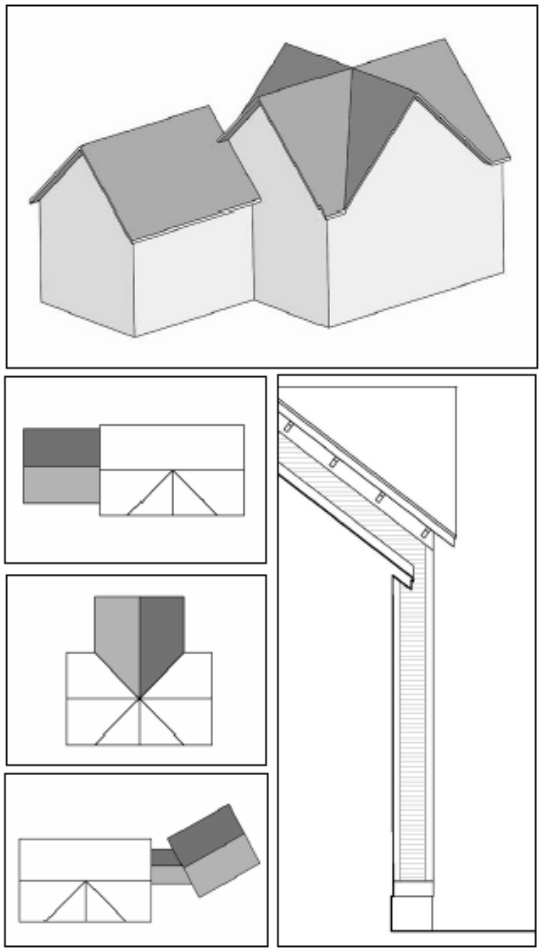


Fig. 17: (Images above) Examples of proper additions to an existing building – the original edges and massing of the older building are revealed by making the addition a separate massing element.

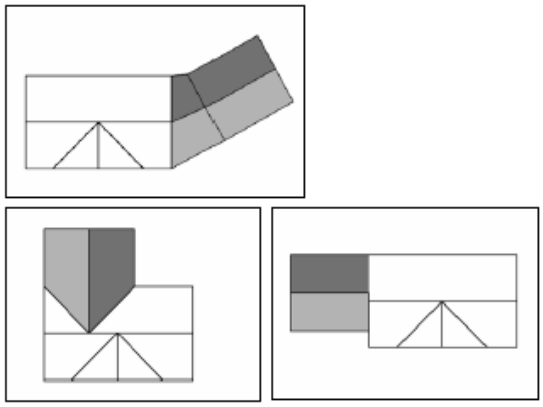


Fig. 18: Examples of improper additions – the line between old and new construction is lost.

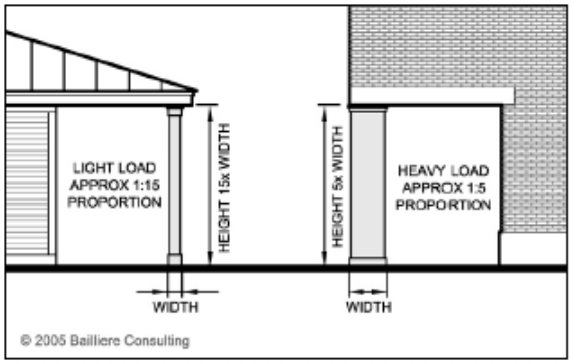


Fig. 20: Relative proportions. Although these two window examples are not the same size, they both share the common proportion of being twice as tall as they are wide.

Fig. 21: Although the windows on the new addition don't exactly match the original windows on this bank, they are generally the same in style and proportion, helping to tie the design together.

Fig. 22: Examples of improper storm doors. These metal storm doors are mounted on the surface of the wood trim. The white door includes unnecessary detail which does not match the historic design of the house, while the bare aluminum door should be painted.

Fig. 23: Examples of proper storm doors. These wood doors are mounted flush with the door trim, and do not contain any unnecessary detail which would detract from the original door design.

Fig. 24: Examples of improper window treatment. The window on the left has only one (non-functional) shutter, and the storm window is unfinished bare aluminum. The window on the right has a painted storm window, but it is mounted directly to the trim.

Fig. 25: Examples of proper window treatment. The brick building expresses the structural lintel above the window. Both photos show the storm widow is painted and recessed within the window opening.

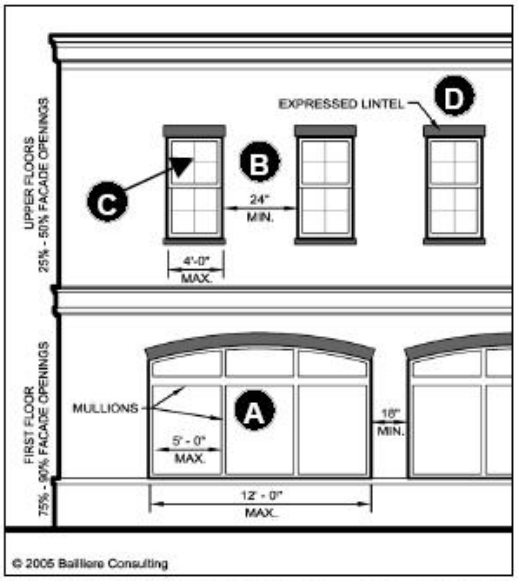


Fig. 26: Maximum window sizes for commercial construction.

8.7.6 Proportioning and Rhythm

1. Design elements of new construction must be in keeping with the proportions of similar design elements on adjacent structures whenever possible.

2. The relative proportions of design elements such as windows, bays or columns in a structure should be kept consistent throughout the design. Design elements which are being added to (or are part of an addition to) an existing building must be consistent with the proportions found in the original design. [Figure 20]

3. Vertically oriented proportions (those which tend to be taller than they are wide) used throughout a design are recommended over horizontally proportioned elements. Strong horizontal influences such as overly bold fascias or banding designs are prohibited.

4. Window designs should be divided to create a vertical orientation/proportion.

5. The proportion of structural elements such as posts or columns must be appropriate to the weight they appear to be carrying. [Figure 19]

6. The facade rhythm (spacing of windows and bays) on additions to existing structures should match the rhythm of the original building as closely as possible. The façade rhythm of new construction should attempt to be in keeping with the rhythm found on adjacent structures.

7. The use of an easily recognizable and regular pattern on the façade is recommended, especially on larger structures.

8. Breaks and fluctuations in the overall rhythm of a building are recommended to be used to draw attention to important areas such as the entry, or to simply relieve the monotony of very long façades.

9. The use of a front porch or colonnade is a very useful way of creating a strong rhythm, and also provides shelter for pedestrians. The expression on the facade of the structural bay system within is another way to display rhythm.

8.7.7 Fenestration, Doors, and Windows

1. Existing window and door openings in the exterior façade of historic buildings should not be in-filled, covered or changed in size without Development Review Board approval.

2. Removal of original doors, windows, shutters or trim on an existing historic structure is prohibited without Development Review Board approval unless necessary. These items should be maintained and repaired whenever possible in lieu of replacement. If replacement is necessary, replace with like materials which have the same general design theme. The

replacement designs do not have to be as detailed or ornate as the original materials. [A in Fig. 23]

3. Replacement windows on historic structures governed by this section should be constructed of wood whenever possible and match the size and general style of the windows being removed.

4. New construction within must utilize at least simulated divided-lite window designs (which have both interior and exterior mullions separated by an internal spacer bar) for all non-display windows visible from the public street.

5. New window or door openings added to existing buildings should match the general size, scale, proportion, and trim of other openings on the facade.

6. Storm doors added to existing entryways should be inconspicuous and devoid of overly ornate designs which detract or obscure the original doorway. Storm doors with inappropriate ornament-like scalloped edges around the glass, curving metal grilles, eagles, imitation hinges, or x-shaped bottom panels are prohibited. [A in Fig. 22] Storm doors should be constructed of wood or painted aluminum.

7. Storm windows and doors added to existing openings should be properly installed so that they are recessed inside the outer window trim. [B in Fig. 24 & 25] Storm windows and doors mounted directly onto the face of the trim are prohibited [B in Figure 22], unless installation in this manner is impossible. Storm windows and doors should be constructed of wood or painted aluminum. Bare aluminum frames are prohibited. [C in Fig. 22]

8. Window shutters, if used, should be properly mounted on both sides of a window so as to give the appearance that they would completely cover the opening when shut. Shutters mounted on only one side of a window, or on either side of a wide window, are prohibited. [A in Fig. 24]

9. Imitation shutters constructed of plastic, vinyl or other synthetic materials are prohibited.

10. Existing commercial storefronts should be maintained and repaired if possible in lieu of replacement. If replacement is necessary, replace with like materials which have the same general design theme, proportions, and scale. The replacement designs do not have to be as detailed or ornate as the original materials.

11. The amount of facade fenestration (size of openings, fluctuations, and depth) on new construction should be in keeping with the designs of neighboring buildings.

12. New construction must demonstrate ample articulation in the plane of the façade to be in keeping with the articulation found in neighboring buildings. Very flat, planar façade designs are prohibited. [Fig. 12]

13. New commercial construction must use an increased level of depth and/or larger facade openings at ground floor levels. Relatively smaller openings and less depth should be found on upper floor openings. [Figure 6]

14. Large ground-floor display window on new commercial construction within the Village Center District are limited to 5 feet wide per divided glass area and must be separated by at least 6 inches of mullion. Individual window openings in the façade are limited to a total of 12 feet wide and must be separated by at least 18 inches of façade. [A in Fig. 26]

15. Regular (Non-Display) window openings on new construction within the Village Center District are limited to four feet wide per window and must be separated by at least 24 inches of façade. [B in Fig. 26]

16. Regular (Non-Display) windows on new construction within the Village Center District must not have a glass area exceeding 2 square feet without a simulated divided-lite division as per 9.4.6.4. [C in Fig. 26]

17. Window types on new construction should complement the types found on adjacent structures.

18. Casement windows are prohibited.

19. Openings in new masonry buildings should utilize a structural lintel or arch to express how it is carrying the weight above. [D in Fig. 26]

20. Covered porches and similar recessed front entry areas are encouraged on new construction. The level of fenestration and articulation around these entry areas is important.

21. Porch areas should not be used for outdoor merchandise display.

22. The use of porches, colonnades, canopies, or awnings are encouraged at selected places along a façade in new construction.

23. Blank areas of wall within the Village Center District should be articulated by expressing the structural bays of the building with pilasters or other detailing.

This creative pattern on a slate roof is an excellent way to enliven the design and break up the expanse of the roof.

8.7.8 Materials and Colors

1. Maintain and repair existing materials whenever possible. If replacement is necessary, replace with like materials which have the same basic forms and proportions. The replacement

designs do not have to be as detailed or ornate as the original materials. For a complete listing of all approved exterior materials, see the Exterior Materials Sheet –Section 8.7.9.

2.Whenever possible, use building materials that are commonly found in the adjacent structures and surrounding area.

3. The materials and colors used in new construction should complement the materials and colors found on adjacent buildings.

4. The materials and colors used in additions and renovations should complement or match those found on the original structure.

5. Exterior colors should be of a natural, muted shade.

6. Smaller scale, natural materials are required on new construction in areas of the building which are clearly visible from the public way.

7. When using more then one material on a façade, use one as the primary theme with the others used sparingly to complement or accentuate the design.

8. The size, scale, motif and use of materials for the front façade design should be kept consistent across the façade in order to tie the entire composition together.

9. The use of a variety of design styles and materials across the different facades of the same building is not recommended.

10. Special patterns appearing every now and then in the façade or roofing material are highly encouraged in new construction.

11. When using multiple colors on the exterior of the building, one color should be used as the dominant theme, with the other colors used more sparingly to create accents.

12. Brighter, more vibrant colors, if used, should generally be reserved for minor accents and highlights only, and should be used sparingly.

13. When making a transition from one material to the next, the change should occur at a hard edge or bump-out in the façade to help create a surface for the first material to terminate into before the second one begins.

14. Existing historic exterior wall materials should not be covered or concealed by new materials. Instead, existing materials should be repaired or restored whenever possible. If repair is not reasonably possible, they should be replaced with similar materials only where necessary on an area-by-area basis with approval by the Development Review Board.

8.7.9 Exterior Materials List

The following list is meant as a general guide for the exterior materials that should and shouldn't be used within the Historic District. The list is not meant to be all –inclusive or exhaustive. The Development Review Board must approve all exterior materials and colors prior to design approval. Approved materials must be used on the front façade and areas directly facing the street, and should be used on all other facades unless the Development Review Board grants a variance for selected surface areas.

Element	Recommended Materials	Not Recommended Materials
Facades	Common Red Brick	Multi-Colored/Multi-Toned Brick
	Bare (consistent tone)	Imitation Brick Siding, Asphalt Siding
	Painted (approved color)	Jumbo/Utility Brick
	Natural Stone / Imitation Stone	Concrete Masonry Units
	Wood Clapboard or Shingle (6" exposure max.)	Metal, Aluminum Siding
	Painted or Stained (approved color)	E.I.F.S. (a.k.a. Dryvit) / Stucco
	Wood Shingle (6" exposure max. unless matching existing)	Unfinished, Lumber Grade Wood
	Painted or Stained (approved color)	Vinyl Siding (Within Village Center)
	Imitation/Synthetic Wood	Concrete Panel / Precast Concrete
	PVC (approved color)	Wood Paneling
	Vinyl Siding (Allowed Outside Village Center Only)	Plywood, T-111, Lumber Grade Wood
	(approved color)	Composite, MDO/MDF Board
	Fiber Reinforced Cement Siding	Adirondack Siding
Trimwork	Wood - Finished Grade	Bare or Unfinished Wood
	Painted or Stained (approved color)	Lumber Grade
	Fiber Reinforced Cement	Aluminum (bare)
	Painted (approved Color)	
Windows & Doors	Anodized Aluminum Frame/Storefront	Bare Aluminum
	Painted Approved Color	Reflective Flashing
	Wood, Vinyl Clad, PVC Frame	
	Approved Color	
	Clear, Etched, Frosted or Stained Glass	Mirrored or Dark Tinted Glass
	Expressed Lintels Over Openings	Steel Plate or Angle Lintels
	Brick, Limestone, Colored or Bare Concrete	
Roof	Asphalt Shingle (approved color)	Imitation Slate (rubber)
	Imitation Slate (non-rubber)	
	Natural Slate	
	Standing Seam Metal	
	Small Seam Width, approved color	
	PVC, Modified Bitumen (Flat roof structures only)	
	Aluminum Eave Guard	
Other / Misc.	Canvas Awning	Plastic, Vinyl or Other Synthetic
	3 Color Max, approved colors	Reflective Flashing
	Concrete Sidewalks / Walkways (poured)	Asphalt Sidewalks / Walkways
	Stamped Concrete	
	Wood / Synthetic Wood Porches, Boardwalks, Ramps	
	Parapet & Chimney Caps	
	Stone, Limestone or Precast Concrete	
	Metal Flashing (approved color)	

8.7.10 Lighting

1. Lighting used for signs, landscaping, walkways, parking lots, canopies and security should include full shielding or recessed fixtures which project light downward only, with no exposed bulbs readily visible from the public way.

2. Light pollution should be kept to a minimum. The light from exterior lighting fixtures should not spill over into adjacent properties and should provide only as much illumination as required on the target surfaces.

3.Internally lit canopies and awnings are prohibited.

4. Incandescent [and halogen] lamps are recommended for typical exterior uses. Fluorescent, metal halide, mercury vapor, low pressure sodium, high pressure sodium, neon and laser lights are discouraged.

5. Freestanding street, sidewalk, and parking area lights, if used, should be no more than 8 to 12 feet high. Walkway lights should be no taller than 3 feet. Attempts should be made to chose fixtures which have an older, historic design, and do not appear overly modern. [Fig. 30]

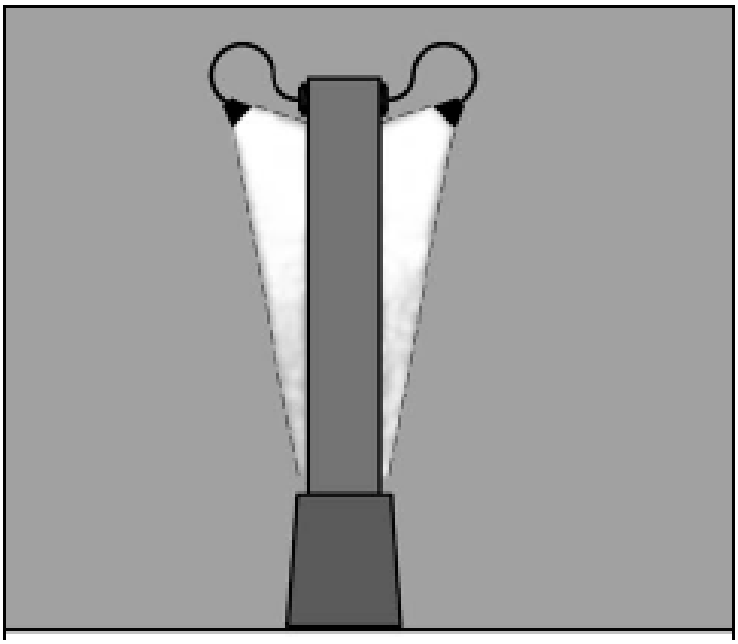
6. Lighting used for landscaping and signs should be downward-facing and fully shielded so that bare bulbs are not readily visible. [Fig. 31]

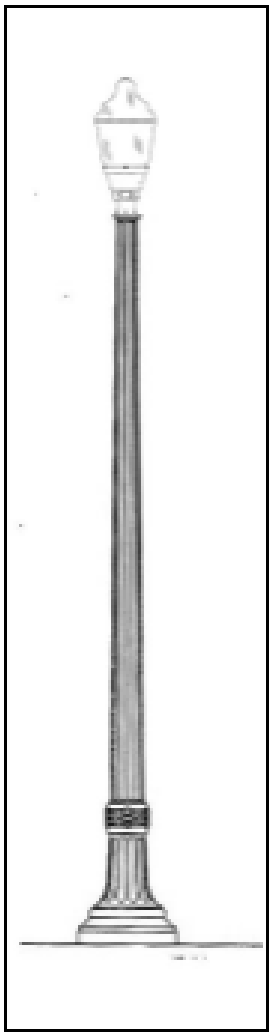
7. Lighting used for facade illumination should be kept to minimal use only. The lamps may be either directly upward or downward facing and should be fully shielded so that bare bulbs are not readily visible.

8. Higher levels of lighting are only needed in certain areas for security and should be limited to remote areas not visible from the street, such as a rear employee entrance or back door.

9. Exterior gas station canopy lights should be fully recessed within their housing so as to focus their illumination directly downward onto the pump pad below. The fixtures or their glare should not be visible from neighboring properties or the street.

Lighting Use	Maximum Footcandles (Horizontal)	Average Footcandles (Horizontal)	Minimum Footcandles (Horizontal)	Uniformity Ratio
Public Sidewalk	5.0 fc	2.5 fc	0.6 fc	4:1
Parking Lot	5.0 fc	3.0 fc	1.0 fc	4:1
Security	5.0 fc	3.6 fc	2.0 fc	4:1
Façade	3.0 fc	2.0 fc	-	-
Landscaping	2.0 fc	1.5 fc	-	-





Above: Exterior sign and landscape lighting. Signs and facade lettering should only be illuminated by downward-facing lamp fixtures that are fully shielded. All exterior lighting should be shielded to reduce glare.

Right: Exterior lamp post. The Village prefers the use of traditional style lamp posts which have a more historic character similar to the one shown here.

SECTION 9: FLOOD HAZARD MULTI-DISTRICT AREA REGULATIONS

9.1 Purpose

In addition to the purpose of the zoning district(s) underlying the Flood Hazard Area, the purpose of this regulation is to protect the public health, safety, persons, and property against the hazards of flood water inundation, and for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to flooding.

9.2 Definitions

The National Flood Insurance Program definitions contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. These definitions are reprinted below.

Act means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

Actuarial rates--see risk premium rates.

Administrator means the Federal Insurance Administrator.

Agency means the Federal Emergency Management Agency, Washington DC.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and, unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Applicant means a community which indicates a desire to participate in the Program.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood-related erosion hazard is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

Area of special flood hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term ``special flood hazard area'' is synonymous in meaning with the phrase area of special flood hazard. I

Area of special mudslide (i.e., mudflow) hazard is the land within a community most likely to be subject to severe mudslides (i.e., mudflows). The area may be designated as Zone M on the FHBM. After the detailed evaluation of the special mudslide (i.e., mudflow) hazard area in preparation for publication of the FIRM, Zone M may be further refined.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) is the elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum o 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces,

without causing damage to the elevated portion of the building or supporting foundation system.

Building--see structure.

Chargeable rates mean the rates established by the Administrator pursuant to section 1308 of the Act for first layer limits of flood insurance on existing structures.

Chief Executive Officer of the community (CEO) means the official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Community means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

Contents coverage is the insurance on personal property within an enclosed structure, including the cost of debris removal, and the reasonable cost of removal of contents to minimize damage. Personal property may be household goods usual or incidental to residential occupancy, or merchandise, furniture, fixtures, machinery, equipment and supplies usual to other than residential occupancies.

Criteria means the comprehensive criteria for land management and use for flood-prone areas developed under 42 U.S.C. 4102 for the purposes set forth in part 60 of this subchapter.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Curvilinear Line means the border on either a FHBM or FIRM that delineates the special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazard areas and consists of a curved or contour line that follows the topography.

Deductible means the fixed amount or percentage of any loss covered by insurance which is borne by the insured prior to the insurer's liability.

Developed area means an area of a community that is:

(a) A primarily urbanized, built-up area that is a minimum of 20 contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and

(1) Within which 75 percent or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or

(2) Is a single parcel, tract, or lot in which 75 percent of the area contains existing commercial or industrial structures or uses; or

(3) Is a subdivision developed at a density of at least two residential structures per acre within which 75 percent or more of the lots contain existing residential structures at the time the designation is adopted.

(b) Undeveloped parcels, tracts, or lots, the combination of which is less than 20 acres and contiguous on at least 3 sides to areas meeting the criteria of paragraph (a) at the time the designation is adopted.

(c) A subdivision that is a minimum of 20 contiguous acres that has obtained all necessary government approvals, provided that the actual start of construction" of structures has occurred on at least 10 percent of the lots or remaining lots of a subdivision or 10 percent of the maximum building coverage or remaining building coverage allowed for a single lot subdivision at the time the designation is adopted and construction of structures is underway. Residential subdivisions must meet the density criteria in paragraph (a)(3).

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Director means the Director of the Federal Emergency Management Agency.

Eligible community or participating community means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

Elevated building means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Emergency Flood Insurance Program or emergency program means the Program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

Exception means a waiver from the provisions of part 60 of this subchapter directed to a community which relieves it from the requirements of a rule, regulation, order or other determination made or issued pursuant to the Act.

Existing construction means, for the purposes of determining rates, structures for which the ``start of construction'' commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. ``Existing construction'' may also be referred to as ``existing structures.''

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing structures see existing construction.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal agency means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Zone of imminent collapse means an area subject to erosion adjacent to the shoreline of an ocean, bay, or lake and within a distance equal to 10 feet plus 5 times the average annual long-term erosion rate for the site, measured from the reference feature.Federal Home Loan Bank

Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration. Financial assistance means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States.

Financial assistance for acquisition or construction purposes means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief Act of 1974 other than assistance under such Act in connection with a flood. It includes only financial assistance insurable under the Standard Flood Insurance Policy.

First-layer coverage is the maximum amount of structural and contents insurance coverage available under the Emergency Program.

Flood or Flooding means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
    a. The overflow of inland or tidal waters.
    b. The unusual and rapid accumulation or runoff of surface waters from any source.
    c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood insurance means the insurance coverage provided under the Program.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study see flood elevation study.

Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of ``flooding'').

Flood plain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

Flood plain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a ``special flood hazard'' and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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

Flood-related erosion means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood-related erosion area or flood-related erosion prone area means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood- related erosion damage.

Flood-related erosion area management means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and flood plain management regulations.

Floodway--see regulatory floodway.

Floodway encroachment lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

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

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard' tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Future-conditions flood hazard area, or future-conditions floodplain--see Area of future-conditions flood hazard.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning maps and/or comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

General Counsel means the General Counsel of the Federal Emergency Management Agency.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the Secretary of the Interior or
    b. Directly by the Secretary of the Interior in states without approved programs.

Independent scientific body means a non-Federal technical or scientific organization involved in the study of land use planning, flood plain management, hydrology, geology, geography, or any other related field of study concerned with flooding.

Insurance adjustment organization means any organization or person engaged in the business of adjusting loss claims arising under the Standard Flood Insurance Policy. Insurance company or insurer means any person or organization authorized to engage in the insurance business under the laws of any State.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor means 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; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Sec. 60.3.

Mangrove stand means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: Black mangrove (Avicennia Nitida);

red mangrove (Rhizophora Mangle); white mangrove (Languncularia Racemosa); and buttonwood (Conocarpus Erecta).

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ``manufactured home'' does not include a `recreational vehicle''.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Mudslide (i.e., mudflow) describes a condition where there is a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

Mudslide (i.e., mudflow) area management means the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

Mudslide (i.e., mudflow) prone area means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

New construction means, for the purposes of determining insurance rates, structures for which the ``start of construction'' commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management

regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

100-year flood see base flood.

Participating community, also known as an eligible community, means a community in which the Administrator has authorized the sale of flood insurance.

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Policy means the Standard Flood Insurance Policy.

Premium means the total premium payable by the insured for the coverage or coverages provided under the policy. The calculation of the premium may be based upon either chargeable rates or risk premium rates, or a combination of both.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms.

The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground. Program means the National Flood Insurance Program authorized by 42 U.S.C. 4001 through 4128.

Program deficiency means a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations or of the standards in Sec. Sec. 60.3, 60.4, 60.5, or 60.6.

Project cost means the total financial cost of a flood protection system (including design, land acquisition, construction, fees, overhead, and profits), unless the Federal Insurance Administrator determines a given ``cost'' not to be a part of such project cost.

Recreational vehicle means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference feature is the receding edge of a bluff or eroding frontal dune, or if such a feature is not present, the normal high-water line or the seaward line of permanent vegetation if a high-water line cannot be identified.

Regular Program means the Program authorized by the Act under which risk premium rates are required for the first half of available coverage (also known as ``first layer'' coverage) for all new construction and substantial improvements started on or after the effective date of the FIRM, or after December 31, 1974, for FIRM's effective on or before that date. All buildings, the construction of which started before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date, are eligible for first layer coverage at either subsidized rates or risk premium rates, whichever are lower. Regardless of date of construction, risk premium rates are always required for the second layer coverage and such coverage is offered only after the Administrator has completed a risk study for the community.

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

Remedy a violation means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Risk premium rates mean those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with section 1307 of the Act and the accepted actuarial principles. ``Risk premium rates'' include provisions for operating costs and allowances.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Scientifically incorrect. The methodology(ies) and/or assumptions which have been utilized are inappropriate for the physical processes being evaluated or are otherwise erroneous.

Second layer coverage means an additional limit of coverage equal to the amounts made available under the Emergency Program, and made available under the Regular Program.

Servicing Company means a corporation, partnership, association, or any other organized entity which contracts with the Federal Insurance Administration to service insurance policies under the National Flood Insurance Program for a particular area. Sheet flow area--see area of shallow flooding.

60-year setback means a distance equal to 60 times the average annual long term recession rate at a site, measured from the reference feature.

Special flood hazard area--see ``area of special flood hazard''.

Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

Standard Flood Insurance Policy means the flood insurance policy issued by the Federal Insurance Administrator, or an insurer pursuant to an arrangement with the Administrator pursuant to Federal statutes and regulations.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. State means any State, the District of

Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

State coordinating agency means the agency of the state government, or other office designated by the Governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that state.

Storm cellar means a space below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornado or similar wind storm activity.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means:

(1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

(2) A manufactured home (``a manufactured home,'' also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

(3) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, ``structure'' does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Subsidized rates mean the rates established by the Administrator involving in the aggregate a subsidization by the Federal Government.

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years or over the period of a common plan of development, equals or exceeds 50 percent of the market value of the structure before the start of construction'' of the

improvement. This term includes structures which have incurred ``substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(2) Any alteration of a ``historic structure", provided that the alteration will not preclude the structure's continued designation as a historic structure". A common plan of development is the refurbishment of a structure over a period of time. Such work might be planned unit by unit.

30-year setback means a distance equal to 30 times the average annual long term recession rate at a site, measured from the reference feature.

Technically incorrect. The methodology(ies) utilized has been erroneously applied due to mathematical or measurement error, changed physical conditions, or insufficient quantity or quality of input data.

V Zone--see ``coastal high hazard area.'

Variance means a grant of relief by a community from the terms of a flood plain management regulation.

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Zone of imminent collapse means an area subject to erosion adjacent to the shoreline of an ocean, bay, or lake and within a distance equal to 10 feet plus 5 times the average annual long-term erosion rate for the site, measured from the reference feature.

9.3 Administration

9.3.1 Application Requirements

Applications shall include, in addition to any other requirements of these regulations, plans in triplicate, drawn to scale, showing the nature, location, dimensions, and elevations of the lot, plat, or parcel, existing and proposed structures, fill and storage of materials, flood-proofing measures, and the relationship of the above to the location of the channel, flood hazard area, and, based on the best information available, the elevation of the 100 year flood. A valley cross-section showing the stream channel, and elevation of land adjoining each side of the channel, and areas occupied by the proposed development may be required.

9.3.2 Precedent of Law

Where this regulation imposes a greater restriction upon the land development, the provisions of this regulation shall control.

9.3.3 Administration and Enforcement

The provisions of this regulation shall be administered and enforced as provided for in Section 4 of these regulations. The Zoning Administrator shall maintain a record of:

1. All permits issued for development in areas of special flood hazard.
2. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the flood hazard area.
3. All flood-proofing certifications required under this regulation.
4. All variance actions, including justification for their issuance.

9.3.4 Review Procedure and Development Standards

Review Procedure: Except as provided for in Section 8.3.6 all land development, including the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure (including prefabricated units or manufactured homes), or of any mining, excavation, or land fill, and any change in the use of land in the Flood Hazard Area may be permitted only by the Development

Review Board as a conditional use, in accordance with the procedures of Section 4.9 of these regulations.

Where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and is certified by a registered professional engineer.

Upon receipt of a complete application for a substantial improvement or a new construction, the Zoning Administrator shall transmit one copy of the application and supporting information to the State national Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, in accordance with Title 24 V.S.A., Chapter 117, Section 4424. A permit may be issued only following receipt of comments from the Department or the expiration of 30 days from the date the application was mailed to the Department, whichever is sooner.

Adjacent communities and the Department shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a watercourse, and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal and State law.

Development Standards: In addition to the district requirements, the Development Review Board shall determine that all development is:

1. Reasonably safe from flooding.
2. Designed and anchored to prevent flotation, collapse, or lateral movement of the structure.
3. Constructed of materials and utility equipment that are resistant to flood damage.
4. Constructed using methods and practices that will minimize flood damage.
5. Consistent with the need to minimize flood damage.
6. Designed so that public utilities and facilities, such as sewer, gas, electrical, and water systems, are located, elevated, and constructed to minimize or eliminate flood damage. Construction shall insure that electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities are designed and/or located so as to prevent water from entering or accumulating within components during conditions of flooding.
7. Designed so that adequate drainage is provided so as to reduce exposure to flood hazards.

8. New or replacement water supply systems, and/or sanitary sewage systems, are designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and that on-site disposal systems are located so as to avoid impairment of them or contamination from them during flooding.

9. Base flood elevation and floodway data identified in Section 9.4.2 shall be used to ensure that the lowest floor (including basement) of residential buildings is elevated to be one foot or more above the base flood elevation and the floodway be kept free of obstructions.

10. The lowest floor (including basement) of any substantially improved non- residential buildings and other structures, shall be elevated or flood-proofed to at least one foot above the 100-year flood level, or be designed to be watertight with the walls substantially impermeable to at least two feet above the base flood elevation and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a 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. Structures to be substantially improved in Zone A, A1-30, AE, and AH shall be located such a that the lowest floor is at least one foot above base flood elevation; this must be documented in as-built condition with a FEMA Elevation Certificate.

11. Enclosures below grade on all sides (including below grade crawlspaces and basements) are prohibited. Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation, and subject to flooding, shall

    a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits, and

    b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: a minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings shall be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

12. Storage of materials or equipment may be permitted if not subject to damage by floodwater and are firmly anchored or secured to prevent flotation.
13. Fill may be permitted in the flood hazard area only when it can be demonstrated that flood flows will not be obstructed or diverted. No fill shall be permitted in the floodway unless a registered professional engineer certifies that the proposed fill will not result in any increase in flood levels during the occurrence of the base flood.
14. New and replacement manufactured homes shall be elevated on properly compacted fill, such that the top of the fill (the pad) under the entire manufactured home is at least one foot above the base flood elevation.
15. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
16. Recreational Vehicles placed on sites within Zones A1 – A30, AH and AE shall either: be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or 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).
17. Encroachments or development above grade and below the elevation of the floodway are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will not:

    a. Result in any increase in flood levels (0.00 feet) during the occurrence of the base flood; and

    b. Increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

9.3.5 Burden of Proof

In reviewing the proposed land development, the burden of proof shall be on the applicant.

9.3.6 Variances

Variances shall be granted by the Development Review Board only in accordance with the provisions of Section 4.3.3 of these regulations, Title 24 V.S.A., Chapter 117, Section 4424(E) and 44 CFR Section 60.6, and upon determination that the variance will not result in increased

flood heights that pose threats to public safety, extraordinary public expense, create nuisances or victimization of the public, or conflict with existing local laws or ordinances.

Any variance issued in the flood hazard area will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases the risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for every $100 of coverage. Such notification shall be maintained with a record of all variance actions.

9.3.7 Disclaimer

These regulations shall not be construed to imply that areas outside of the flood hazard areas, or land uses permitted hereunder, within such flood hazard areas, will be free from flooding or flood damage. No permit issued hereunder, or development permitted in accordance herewith, shall create any liability on the part of the Village of North Bennington, or any officer, agent, or employee thereof.

9.4 Regulations

9.4.1 Flood Hazard Area Maps

These regulations shall apply in all areas in the Village of North Bennington identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Federal Emergency Management Agency which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Zoning Administrator. If the boundary cannot be accurately determined or if an applicant disagrees with the determination made by the Zoning Administrator, the matter shall be referred to FEMA; a Letter of map Amendment from FEMA shall constitute proof of the correct location of the boundary.

9.4.2 Base Flood Elevations and Floodway Limits

Where available (i.e., Zone A1 – A30, AE, and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

In flood hazard areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and

accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA or state or federal agencies.

9.4.3 Prohibited Uses

Junkyards, as defined in Title 24 V.S.A., Chapter 117, 2068, solid waste disposal sites, and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway. All structures, other than those existing on the effective date of these regulations and those specifically identified in Sections 9.4.4 and 9.4.5, are prohibited.

9.4.4 Uses Permitted in Flood Hazard Areas Without Conditional Use Review

The following uses are permitted in flood hazard areas, provided that they do not reduce the flood carrying capacity of the stream. A permit may be issued for these uses by the Zoning Administrator without conditional use approval by the Development Review Board.

Any state and federal permits applicable to the subject activity must be submitted as part of the zoning permit application; alternatively, a Project Review Sheet from the Department of Environmental Conservation – identifying all required state and federal permits – may be filed as an attachment to the permit application. All such permits must be submitted to the Zoning Administrator before work on the project can commence.

1. Streambank restoration and stabilization;
2. Necessary improvements by the municipality in case of an emergency;
3. Landscaping that does not involve the erection of any structure;
4. Culverts;
5. Swales;
6. Drainage ditches;
7. Fish and wildlife habitat improvement not requiring structures;
8. Agricultural uses;
9. A wall or fence, provided it does not substantively impede the flow of flood waters.

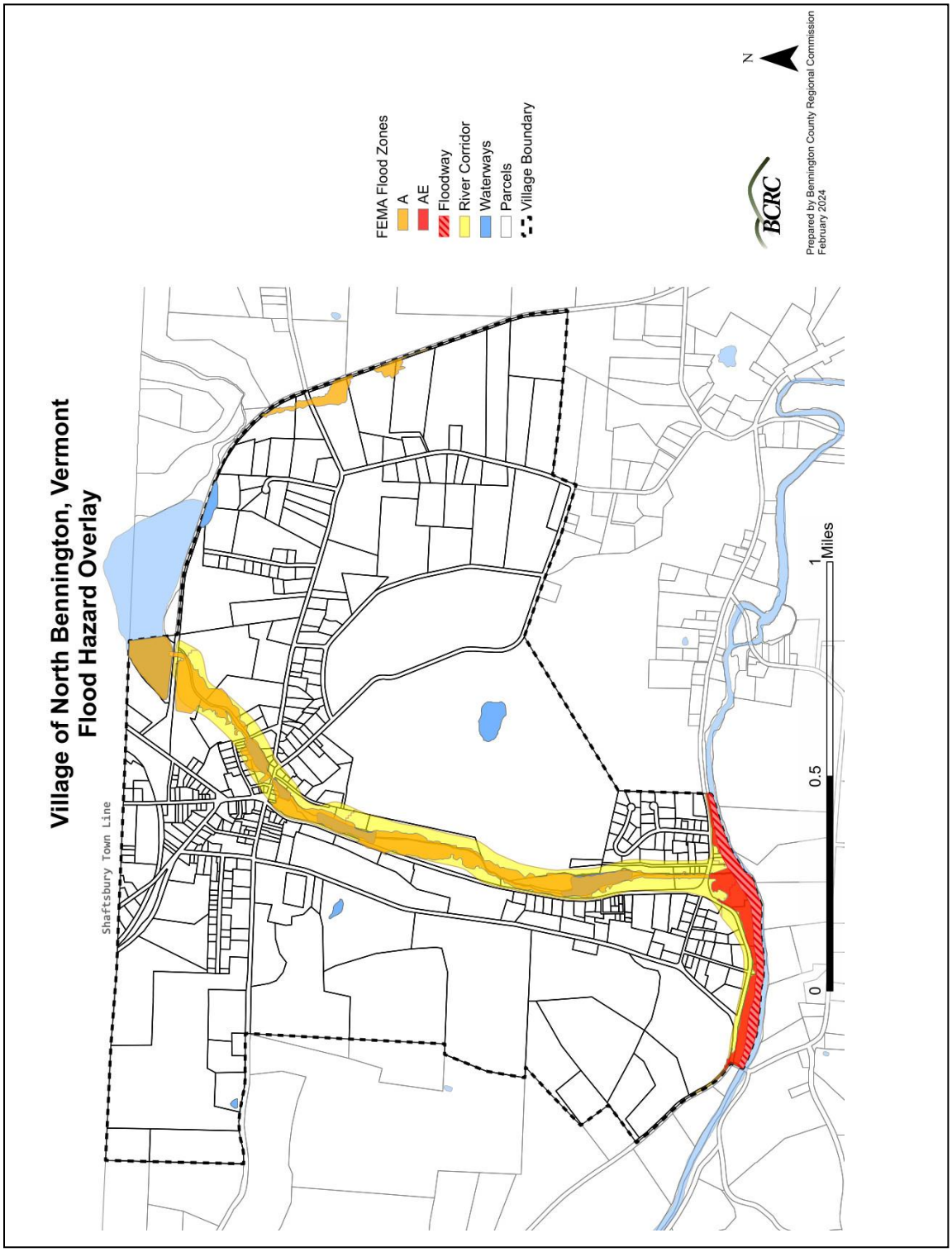
9.4.5 Conditional Uses in Flood Hazard Areas

The following uses are conditionally permitted in flood hazard areas, subject to the requirements of this section and all other applicable sections of the these Regulations. Any state and federal permits applicable to the subject activity must be submitted as part of the zoning permit application.

1. Uses permitted or conditionally permitted in the land use district in which the subject property is located, that are not specifically identified in Section 9.4.3;
2. Bridges;
3. Fish and wildlife habitat improvement requiring structures;
4. Ponds, provided that all excavated material is removed from the floodway;
5. Access ramps for canoes, boats, tubes, swimmers, and fishermen.

9.4.6 Expansion of Existing Buildings in the Floodway

No existing building in the floodway may be enlarged to create a greater encroachment on the floodway.



Note: River Corridor is shown for information only.

SECTION 10: SHORELAND PROTECTION AREAS

10.1 Regulations for the Protection of Shoreland Areas

10.1.1 Purpose

These regulations are intended to provide a safety zone to avoid flood damage, preserve the aesthetic qualities of the shoreland, protect public waters from pollution, protect spawning grounds and wildlife habitat, and prevent erosion.

10.1.2 Definition

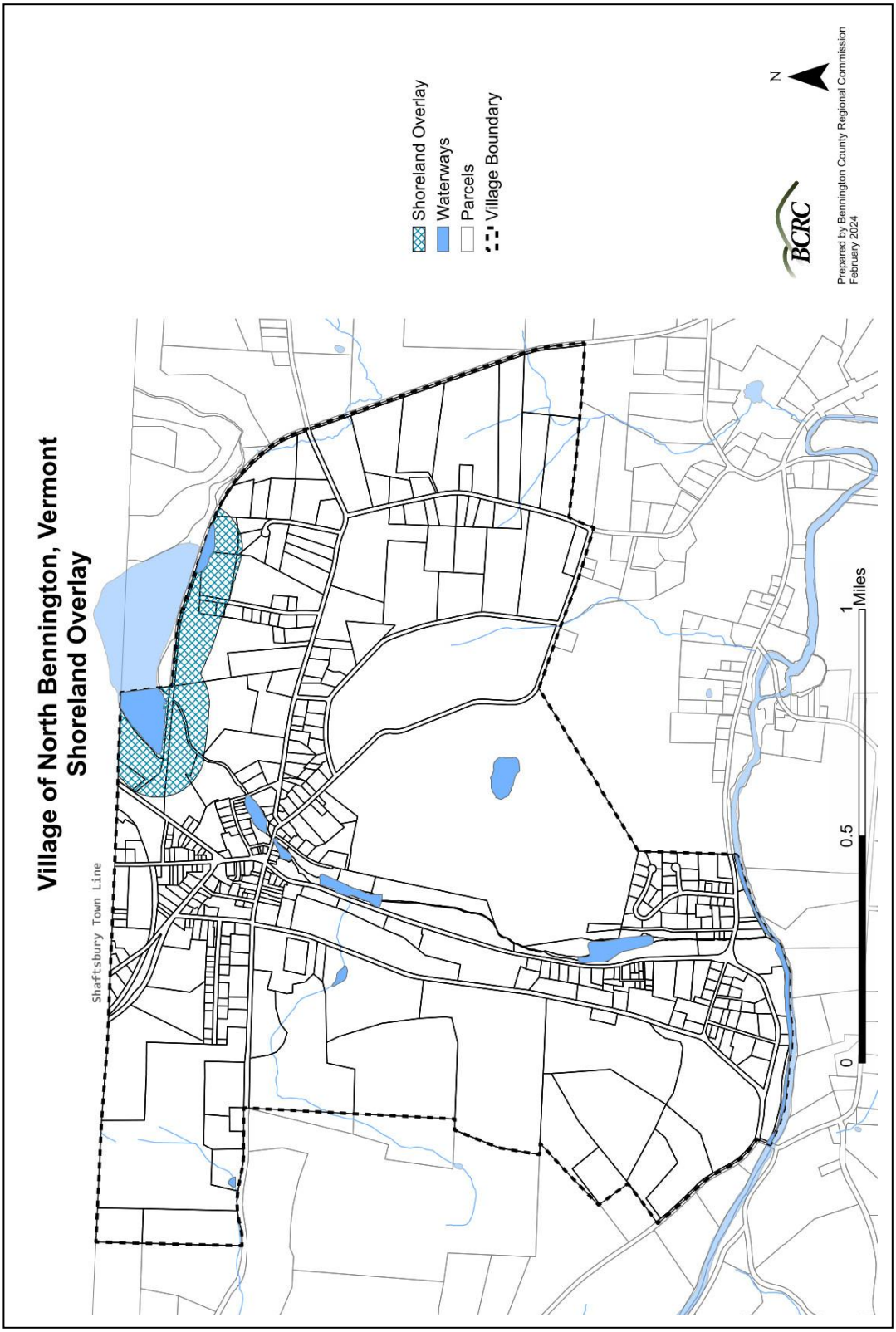
Shoreland is defined to include those lands within the Village of North Bennington extending back 500 feet from the mean high water line of Lake Paran.

10.1.3 Uses

Uses within the designated Shoreland may include those uses permitted or conditionally permitted in the VR-20 District. Waste disposal, sanitary landfill, and the storage of industrial waste or hazardous products are specifically prohibited in the shoreland area.

All buildings and subsurface wastewater facilities in the shoreland area shall maintain a minimum setback of 200 feet from the mean high-water line of Lake Paran. Land within this setback shall be maintained in its natural condition to the extent possible.

SECTION 10: SHORELAND PROTECTION AREAS



SECTION 11: MUNICIPAL INFRASTRUCTURE MULTI-DISTRICT OVERLAY AREAS

11.1 Purpose

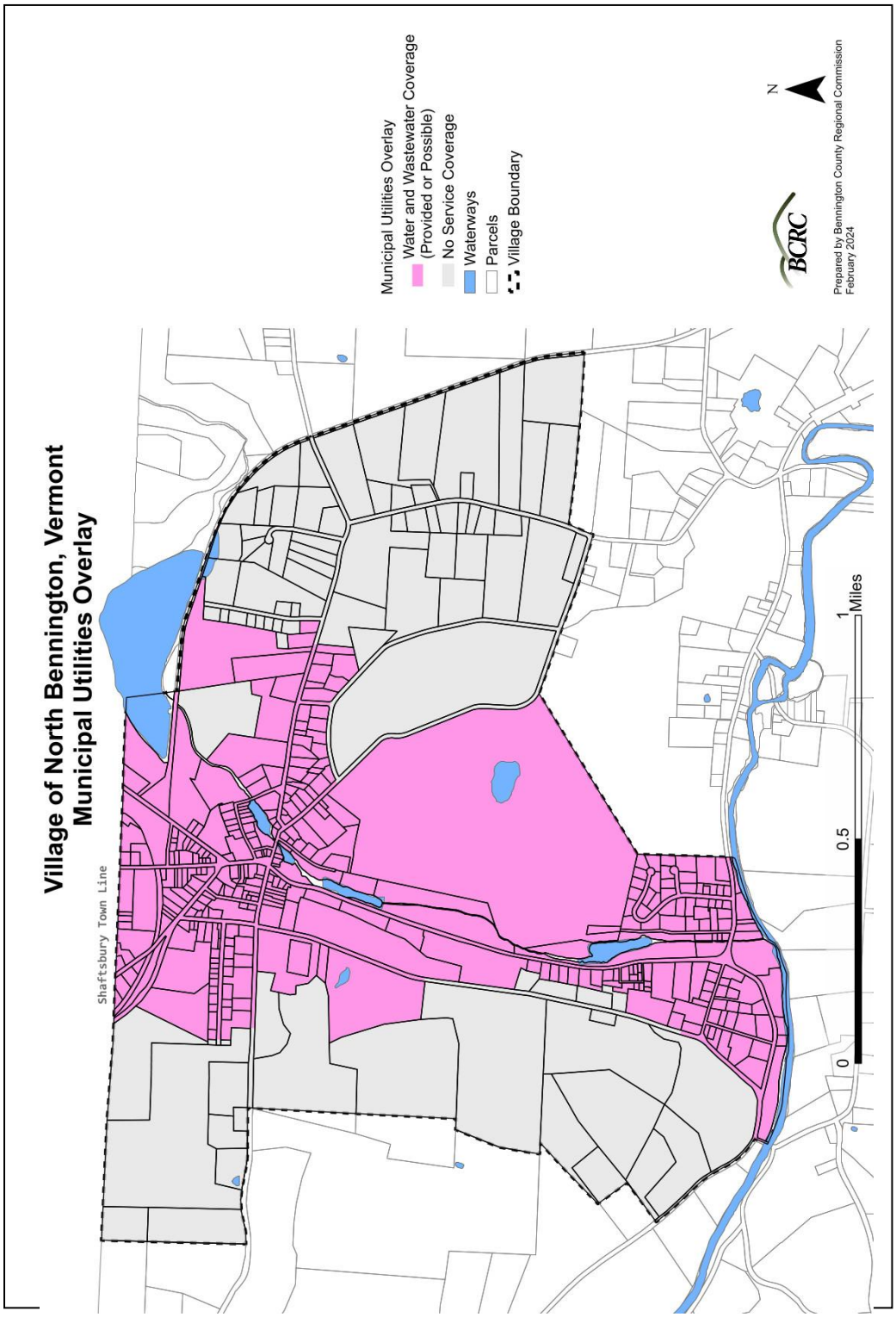
Given that Vermont State Statute, Act 47, has abandoned traditional zoning factors in establishing certain regulatory requirements, basing them instead on areas of infrastructure, the following area categories are created.

11.2 Categories

This Overlay Area has three area categories:

1. Areas which do not have both Village of North Bennington domestic cold water supply infrastructure and Town of Bennington sanitary wastewater infrastructure.
2. Areas which satisfy all the following:
    a. Where residential use is permitted,
    b. Are served by Village of North Bennington domestic cold water supply infrastructure and Town of Bennington sanitary wastewater infrastructure,
    b. Have been established by municipal ordinance or bylaw, and
    c. Capacity exists for connections and extensions.
3. Areas which satisfy all the following:
    a. Where residential use is permitted,
    b. Are served by Village of North Bennington domestic cold water supply infrastructure or Town of Bennington sanitary wastewater infrastructure,
    c. Were established by municipal ordinance or bylaw to address an identified community-scale public health hazard or environmental hazard.

11.3 Map


Village of North Bennington, Vermont
Municipal Utilities Overlay
Shaftsbury Town Line
Municipal Utilities Overlay
Water and Wastewater Coverage
(Provided or Possible)
No Service Coverage
Waterways
Parcels
Village Boundary
N
BCRC
Prepared by Bennington County Regional Commission
February 2024
0
0.5
1 Miles

SECTION 12: SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS – MULTI-DISTRICT REGULATIONS

This Section identifies regulations pertaining to the subdivision of land by a singular ownership entity (Section 12.1) and the construction of multiple structures by a singular ownership entity on either a single parcel or a subdivision (Sections 12.2 through 12.4).

12.1 Subdivision Standards

12.1.1 Basic Subdivision Design

The land to be subdivided must be suitable for use without endangering public health or safety, and without adversely impacting the environment, neighboring properties, or the character of the area. To the maximum extent feasible, a subdivision must:

1. Follow and extend the planned settlement pattern (including lot size, lot configuration, road layout and building location) as defined by the purpose and standards of the applicable zoning district and the planning goals and policies expressed in the *North Bennington Village Plan*.
2. Connect to and extend existing roads, sidewalks, paths, trails, utility routes, greenways, and open space corridors.
3. Preserve site amenities such as trees, water courses, drainage ways, scenic roads, historic sites, significant natural resource areas, or any other unusual features that are an asset to the site or community through harmonious design and appropriate construction methods.
4. Retain the natural contours and conserve the natural cover and soil. No topsoil, sand, or gravel may be removed from a subdivision except as specifically authorized in accordance with these regulations.
5. Maximize the number of lots suitable for construction of passive solar buildings. The building envelope should allow a building to be placed in such a way that it can take full advantage of the sun's natural heat.

The number of lots within a subdivision must not exceed the density allowed in the zoning district except when the subdivision is combined with a Planned Unit Development and that Planned Unit Development is approved for density bonuses per 12.3.2.

12.1.2 Subdivision Lot Configuration

The size and configuration of lots being subdivided must meet zoning district standards and the following:

1. Lots must not be irregularly shaped (ex: curves, jogs, flags, dog-legs, string, spaghetti, bowling alley, etc.) except as approved by the Development Review Board to accommodate site-specific features such as topography, ledge outcroppings, waterways, hedgerows, field boundaries, fence lines, stone walls, or existing roads.
2. Side lot lines must be generally at right angles to straight roads and radial to curved roads. Variations from perpendicular lot lines of up to 15° will be accepted.
3. Rear lot lines must be generally parallel to front lot lines.
4. Lot depth must not exceed 4 times the lot width.
5. Lots with frontage on more than one road must be able to accommodate the required front setback from each road.

Each lot to be approved for development within the subdivision must be capable of the placement of at least one 1,000 square foot (measured at its footprint) building with appropriate setbacks unless the subdivision is for the purpose of creating a cottage court development.

Lots within the subdivision must be designed and laid out to:

1. Be narrow at the street line and to be deeper than they are wide.
2. Be varied in size to foster a diversity of housing choices.
3. Enhance the pedestrian circulation of the neighborhood.
4. Provide each lot with the potential for a private backyard and access to common outdoor space.

Any deferred lots within a subdivision must obtain Development Review Board approval prior to commencement of further development.

12.1.3 Subdivision Streets

The following design and construction standards apply to all driveways and roads serving new development:

SECTION 12: SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS – MULTI-DISTRICT REGULATIONS

(1) Village Standards and Specifications.

(a) If the Village adopts any public works or highway standards that cover private roads, those standards will apply in the case of a conflict with any provision of this section.

(b) Roads that will be constructed or reconstructed within Village highway rights-of-way or that the applicant proposes to be accepted by the Village as public roads must conform to the Village's adopted road and bridge standards.

c) Roads utilized in common by two or more parcel owners shall have legally-binding defined status for ownership, taxation, and maintenance.

(2) Inadequate Roads or Infrastructure.

(a) Where existing Village roads, bridges, and/or associated stormwater infrastructure are inadequate to serve the proposed development, the Development Review Board may condition approval on the applicant paying to upgrade the road or infrastructure to the minimum standard necessary to accommodate the proposed development as agreed to by the Trustees.

(b) Where existing private roads, driveways, bridges, and/or associated stormwater infrastructure are inadequate to serve the proposed development, the Development Review Board may require the applicant to upgrade the road, driveway or infrastructure to the minimum standard specified in these regulations.

(c) Where the existing Village road right-of-way is inadequate, or a realignment or widening of the road would be in the public interest, the Development Review Board may conditional approval on the applicant dedicating additional road right-of- way to the Village as agreed to by the Trustees.

(3) Design and Construction Standards. New, improved, or extended driveways and private roads must meet the minimum design and construction standards in Figure3-6, unless otherwise approved by the Development Review Board to improve traffic circulation and safety and/or may be reduced to not less than 12 feet for one-way looped private roads and driveways. Private road and driveway materials must meet Vermont Agency of Transportation standard specifications for road construction. New, improved, or extended private roads and driveways must be capable of bearing a minimum vehicle weight of 29,000 pounds.

(4) General. The Development Review Board will consider the arrangement, character, extent, width, grade, and location of all proposed private roads and driveways in relation to existing roads, driveways, topography, public convenience and safety, and the proposed uses of the adjacent land. Applicants must set private road and driveway grades to allow for the maximum number of proposed building sites to be situated at or above the finished grade level of the private road or driveway. The design of new private roads must be a continuation of existing roads and create an interconnected road network to the greatest extent feasible.

(5) Compatibility with Anticipated Traffic and Use. Design and construction must be compatible with the estimated average daily traffic expected to occur on the road, and types and density of development allowed in the zoning district. The Development Review Board may increase minimum standards (as set out in Figure 3-6) that are deemed necessary to accommodate anticipated traffic levels, travel speed, truck traffic, terrain, or types/density of development to be served by the road.

(6) Protection of Natural Resources. Roads and driveways must avoid streams, wetlands, steep slopes, and highly erodible soils to the maximum extent feasible. Clearing and grading for roads, driveways and utilities must be limited to the minimum necessary to construct safe roads, driveways, create needed roadside and embankment drainage, establish stable cuts and fills, and allow for utility installation. Driveways and private roads must have the minimal amount of impervious surface capable of accommodating the development.

(7) Length. Driveways and private roads with a length of 1000 ft or more are strongly discouraged. The Development Review Board may require reduced driveway and private road lengths if exceeding this amount.

(8) Intersections. The grade of a private road or driveway must not exceed 10% within 20 feet of any intersection. Private roads and driveways must intersect as close as possible to a right angle and must not intersect at an angle of less than 75 degrees.

(9) Reverse Curves. For roads serving 7 or more dwellings or lots, the length of a tangent between reverse curves must be at least 50 feet.

(10) Dead-Ends. The construction of dead-end roads is strongly discouraged. The Development Review Board will approve dead-end roads only when necessitated by site-specific physical conditions (e.g., steep slopes, ledge outcroppings, streams, wetlands, etc.) Dead end roads serving 6 or fewer dwellings and/or lots and all driveways shall have an adequate turn around at their terminus to serve emergency and service vehicles. Roads serving 7 or more dwellings and/or lots must be constructed to provide a turn-around adequate for turning emergency and service vehicles.

(11) Future Connections. The Development Review Board will require the creation of a right-of-way in-line with any new or extended private road to provide continuation of that road where future development is possible on the subject or an adjoining parcel. The Development Review Board may waive or modify this provision upon determining that topographic or similar physical features on the properties would make such continuance undesirable or impractical. Where adjoining developments or developable properties will not have a vehicular connection, the Development Review Board will require a pedestrian connection if physically feasible.

(12) Emergency Vehicle Turnouts. Private roads and driveways that have a total travel way width of less than 18 feet must provide a turnout every 300 feet, or as needed depending on site distances, capable of accommodating an emergency vehicle. Emergency vehicle turnout must be maintained and cleared of snow when present.

(13) Culverts and Bridges. New or replacement culverts and bridges must meet the following:

(a) Culverts must have a minimum diameter of 18 inches, or 125% of natural channel bank full width for stream crossings if greater (see ANR's *Guidelines for the Design of Stream/Road Crossings for Passage of Aquatic Organisms in Vermont*).

(b) The applicant must submit a hydraulic engineering study for any culvert with a drainage area of more than ¼ square mile. Such a culvert must be designed to convey the Q100 design storm.

(c) The applicant must submit a hydraulic engineering study for all bridges (structures with a span of more than 6 feet) or open bottom structures. Such structures must be designed to convey the Q100 design storm. Appropriate techniques, such as headwalls and wing walls, must be used where there is erosion or undermining, or where it may occur.

(14) Drainage Swales and Ditches. New or improved drainage swales and ditches transporting runoff from roads and driveways must meet the following:

(a) Soil exposed during ditch and slope construction or ditch and slope maintenance must be stabilized to prevent erosion immediately upon completion of the work. Slopes of less than 2% may be seeded and mulched. Slopes between 2% and 5% must use biodegradable, non-welded matting and seed. Slopes greater than 5% must be stone lined or be constructed with stone check dams.

(b) Wide, U-shaped (parabolic) ditches or swales must be provided to the maximum extent feasible rather than narrow, V-shaped ditches. Ditches or swales with gradual side slopes (2:1 slope max) and a wide bottom (at least 2 feet) are preferred. Side slopes in excess of 1:1 must use biodegradable, non-welded matting and seed. Less steep side slopes may be seeded and mulched.

(c) Ditches and swales must be turned out to avoid direct outlet into surface waters to the maximum extent feasible. There must be adequate outlet protection at the end of the turnout consisting of either a rock or vegetative filtering area.

(15) Utilities. Utilities must be located within and follow rights-of-way to the maximum extent feasible.

(16) Streetlights. Private roads and driveways shall be designed with streetlights at intersections and crosswalks, or where approved by the Development Review Board for safety reasons.

(17) Road Names. Private roads and shared driveways must be named and identified by a road sign in accordance with Village standards.

Table 12.1.3.1 Dimensional Standards Table for Roads & Driveways

	<7 DWELLINGS OR LOTS	**>7 DWELLINGS OR LOTS**	**NONRESIDENTIAL/COMMERCIAL DEVELOPMENT**
Traveled way (total width)	12 Ft	18 Ft	TBD by DRB
Vertical clearance	14 Ft	14 Ft	14 Ft
Average grade (over any 100-ft section)	12% Max.	12% Max.	10% Max.
Turning radius	25 Ft Min.	25 Ft Min.	25 Ft Min.
Roadway crown (asphalt)	0.25 in/ft	0.25 in/ft	0.25 in/ft
Roadway crown (aggregate)	0.50 in/ft	0.50 in/ft	0.50 in/ft
Aggregate sub-base course*	12 in min	15 in min	15 in min
Aggregate surface course*	3 in min	3 in min	3 in min
Asphalt binder course (if paved)	2.5 in min	2.5 in min	2.5 in min
Asphalt top course (if paved)	1.5 in min	1.5 in min	1.5 in min
Side slope (not ledge)	3:1 max	3:1 max	3:1 max
Side slope (ledge)	1:4 max	1:4 max	1:4 max
Road fabric	Yes	Yes	Yes

**Gravel roads must be constructed with an aggregate sub-base course and an aggregate surface course. Paved roads must be constructed with an aggregate sub-base course, asphalt binder course and asphalt top course.*

*** Non-Residential/Commercial driveways and/or private roads shall not be less than 12 ft in width.*

12.1.4 Subdivision Conservation Design

Subdivisions must follow conservation design principles as described in this section to the maximum extent feasible given the physical characteristics of the property.

Farmland. When the property to be subdivided is greater than 8 acres and includes farmland (including abandoned fields or meadows that remain largely open), the applicant must design the subdivision to facilitate future agricultural use of the land outside the building footprints. To the maximum extent feasible, the applicant must:

1. Locate building envelopes on the land that is the least well-suited for agriculture.
2. Not include land with primary agricultural soils, cropland, hay fields, and pastures within building envelopes.
3. Locate and configure building envelopes and lot lines so that farmland is not fragmented into pieces that are too small or irregularly shaped to be farmed in the future. Preferably,

land that is intended for future agriculture should be within one or more parcels that would be eligible to enroll in the current use program.

4. Preserve access (for farm equipment or livestock) to land outside building envelopes that may be farmed in the future.

5. Retain open fields or meadows that contribute to scenic views and establish a mechanism for keeping such land cleared if it is not going to be farmed.

6. Locate and configure building envelopes and lot lines to avoid disturbing or adversely affecting significant natural resources (as defined in these regulations).

7. Locate and configure building envelopes to retain a buffer of agricultural land or natural vegetation along existing roads that will maintain the scenic, rural character of the road corridor.

8. Locate and configure building envelopes so that buildings will be located below ridgelines and hilltops, and so that buildings will not exceed the height of the land behind them when viewed from public vantage points with a clear view of the building site.

9. Clear cutting outside building envelopes not associated with silvicultural or agricultural activities (ex. clear cutting to create views, extensive lawns, excessively wide road or utility corridors, etc.) is prohibited. Alternatives to clear cutting (ex. removal of underbrush, trimming of lower limbs, thinning, clearing narrow corridors, etc.) are allowed to create building sites with views. Conformance must take the form of a detailed clearing, cutting, landscaping, etc. plan approved by the Development Review Board.

Forestland. When the property to be subdivided is greater than 8 acres and includes forestland, the applicant must design the subdivision to facilitate future silviculture or conservation use of the land outside the building footprints. If an applicant undertakes forest management or harvesting activities designed as pre-development site preparation (ex: clearing, road construction, etc.) prior to subdivision approval, the Development Review Board may require the site or portions of the site to be restored or re-vegetated to comply with the standards of these regulations. To the greatest extent feasible, the applicant must:

1. Locate building envelopes on the land that is the least well-suited for maple production, timber harvesting, wildlife habitat, and other forest uses.

2. Not include land with primary forestry soils or currently under a forestry management plan within building envelopes.

3. Locate and configure building envelopes and lot lines to minimize the penetration of development into undisturbed forest blocks, and the amount of clearing and impervious surface required to provide access to the building site.

4. Locate and configure building envelopes and lot lines so that forest is not fragmented into pieces that are too small or irregularly shaped to be managed for maple production, timber harvesting, wildlife habitat, and other forest uses. Preserve distinct timber stands and access to land outside building envelopes for sugaring, timber harvesting equipment, recreational trails, and similar activities as appropriate to the subject property. Preferably, land that is intended for future silviculture use should be within one or more parcels that would be eligible to enroll in the current use program.

5. Locate and configure building envelopes and lot lines to retain contiguous blocks of forest land, particularly when they connect to similar resources on adjoining properties.

6. Locate and configure building envelopes to avoid significant natural resources. If the property to be subdivided includes rare, threatened, or endangered species or significant natural communities the applicant must submit a natural resource inventory prepared by a qualified professional as part of the subdivision application and must implement appropriate conservation design approaches to protect the identified natural resources on the property.

7. Locate and configure building envelopes to retain a buffer of natural vegetation along existing roads that will effectively screen development from view.

8. Locate and configure building envelopes so that buildings will be located below ridgelines and hilltops, and so that buildings will not exceed the height of the land behind them when viewed from public vantage points with a clear view of the building site.

9. Clear cutting outside building envelopes not associated with silvicultural or agricultural activities (ex. clear cutting to create views, extensive lawns, excessively wide road or utility corridors, etc.) is prohibited. Alternatives to clear cutting (ex. removal of underbrush, trimming of lower limbs, thinning, clearing narrow corridors, etc.) are allowed to create building sites with views. Conformance must take the form of a detailed clearing, cutting, landscaping, etc. plan approved by the Development Review Board.

10. Cluster building envelopes to minimize the total footprint and perimeter of forest canopy openings and disturbed areas to minimize the impact of development on wildlife.

12.2 Planned Unit Development General Standards

12.2.1 Purpose

The purpose of these standards is to allow planned unit developments (PUDs) that provide an opportunity for more creative, coordinated and context-sensitive projects than would generally be possible under strict application of these regulations. Further, it is the intent of these provisions to encourage projects that provide substantial community benefits by planning development to protect significant natural resources and the Village character. PUDs are also intended to promote more economic and efficient use of land, affordable housing, green building construction, while providing more open space and recreational amenities than conventional subdivision practices.

Two types of Planned Unit Developments are addressed by these regulations: developments that have wide latitude in terms of scale and uses (Section 12.3) and Cottage Court Developments (Section 12.4).

In all cases buildings shall incorporate Vermont vernacular architectural forms and materials supportive of those forms.

Developments shall:

1. implement the policies of the North Bennington Village Plan.
2. encourage compact, pedestrian-oriented development and redevelopment either in residential subdivisions, or, in districts where commercial uses are allowed, in planned commercial or mixed-use developments.
3. be compatible with the uses and character of the Village as determined by the Development Review Board.
4. provide for the conservation of important open space features, including the preservation of agricultural land, forest land, trails and other recreational resources, critical and sensitive natural areas, and scenic resources, and to provide protection from natural hazards.
5. be designed for efficient use of public facilities and infrastructure.
6. encourage and preserve opportunities for energy-efficient development and redevelopment.

The site access requirements of NFPA 1 Chapter 18 shall apply.

Developer to contract with the Village Water Department to provide fire hydrants and fire water line extensions as necessary to satisfy NFPA 1 Chapter 18, if any additions may be necessary.

Sidewalks five feet in width and conforming to setback requirements shall be provided linking all lots and linking to existing Village sidewalks, if applicable.

12.2.2 Applicability

An applicant who wishes to develop a site with 3 or more principal buildings or dwelling units within a 10-year period must use these PUD provisions.

Planned Unit Developments shall be developed upon approved subdivisions or upon a single parcel with singular entity ownership.

12.2.3 Allowance

Planned Unit Developments are allowed in the Village Residential, Village Center, Village Residential-Professional, and Industrial Districts, subject to the use and overall density restrictions applicable to each of those districts.

12.2.4 Review

The Development Review Board shall review a proposal for a PUD pursuant Section 4.5 of these regulations.

12.3 Planned Unit Developments (Broad Application)

12.3.1 Definition

A broad application Planned Unit Development (PUD) is a form of development that yields a multiple structure, comprehensive, and thoughtfully executed design that supports the vision of the Village Plan and, while a broad range of uses may be allowed, is especially focused on housing and mixed use.

12.3.2 Design Standards

The PUD must represent a unified design concept that will result in a new neighborhood that fits into its surroundings in accordance with the following:

(1) To the greatest extent feasible, a PUD must be compatible with the development and conservation goals and policies expressed in the Village of North Bennington Plan, and connect to and extend existing road, sidewalk, path, trail, utility, and open space corridors.

(2) PUDs in all districts must follow traditional neighborhood design principles to the maximum extent feasible given the physical characteristics of the property.

(3) All development must be located within an approved building envelope except for walkways, driveways, roads, utilities, water-dependent structures, farm structures, exempt accessory structures, and incidental structures or improvements on common open or outdoor space. The building envelope(s) must not include any unbuildable land.

12.3.3 Common Space

Common outdoor space must comprise at least 20% of the land within the PUD in accordance with the requirements below:

(1) Common outdoor space must be suitable and available for the collective enjoyment or benefit of the property owners within the PUD and/or public. Such uses may include recreation, community gardening, or renewable energy production. Structures and improvements necessary or appropriate to support those uses may be located on common outdoor space.

(2) Dwellings that will not have private yards must have convenient access to common outdoor space suitable for passive outdoor recreation uses.

(3) The common outdoor space must be owned and maintained by an association, a public entity, or the Village.

12.3.4 Open Space

At least 30% of the land within a PUD must be open space in accordance with the requirements below:

(1) Open space must be suitable for agriculture, silviculture, recreation, wildlife habitat, or similar open space uses and available for the collective enjoyment or benefit of the property owners within the PUD and/or public.

(2) Structures and improvements necessary or appropriate to support agriculture, silviculture, recreation, wildlife habitat, or similar open space uses may be located on open space.

(3) The open space generally must be located in a single contiguous tract suitable for open space uses (ex: agriculture, silviculture, habitat, recreation, etc.) and not be composed primarily of narrow strips, “left-over” pieces between development sites, or other irregular boundaries. The

Development Review Board may approve other configurations for the open space based on site-specific features or resources and the applicant's conservation goals for the PUD.

(4) The open space must be owned and maintained by one of the following:

(a) A private landowner provided that the open space is subject to a permanent conservation easement held by an appropriate public or non-profit entity.

(b) The PUD management association. The association may lease all or a portion of the open space for agricultural or silvicultural use.

(c) An appropriate public or non-profit entity.

(5) The Development Review Board may require the applicant to submit a management plan for the open space as part of the PUD application.

12.4 Cottage Court Developments

12.4.1 Purpose

The purpose of this zoning classification is to facilitate the development of smaller, more affordable single- and multi-family homes, add to the density of homes proximate to Village Center amenities, to provide ready access to local public transportation, to lower the costs of municipal utilities infrastructure development, to support workforce growth and therefore economic development, and to build neighborhood relationships. The complement of dwelling units (See Table 12.2.2.1) is a defined distribution to assure an equitable allocation of dwelling types. Reference Title 24 V.S.A., Chapter 117, Section 4414 1A(i).

12.4.2 Review

The Development Review Board shall review a proposal for a Cottage Court Development as a Minor Development pursuant to Section 4.5 of these regulations.

12.4.2 Regulations

1. This zoning classification is a subset of Planned Unit Developments and is characterized by multiple dwellings developed on a common lot and arranged in compact groupings located around open space. Zoning District dwelling unit densities may be exceeded contingent upon satisfying all regulations of this subsection without variance or waiver.

2. Dwellings shall be arranged in groupings of no less than 5 dwelling units and no more than 12 dwelling units.

3. Dwelling building groupings (18 options listed developed from buildings sized from one to six units), dwelling unit areas (minimum and maximum area limits listed), and associated parking spaces shall be per Table 12.4.2.1

Table 12.4.2.1 Cottage Court Dwelling Unit Groupings, Areas, and Parking

	Single-Family Dwellings	**Two-Unit Dwellings**	**Three-Unit Dwellings**	**Four-Unit Dwellings**	**Five-Unit Dwellings**	**Six-Unit Dwellings**
Dwelling Unit Areas						
Minimum Dwelling Unit Area	600	550	400	400	400	400
Maximum Dwelling Unit Area	1250	900	750	600	600	600
Dwelling Groupings						
5 Dwelling Units Grouping	3 1-Unit Dwellings	1 Duplex				
6 Dwelling Units Grouping	3 1-Unit Dwellings		1 Triplex			
7 Dwelling Units Grouping	2 1-Unit Dwellings	1 Duplex	1 Triplex			
8 Dwelling Units Grouping	3 1-Unit Dwellings				1 5-Unit Dwelling	
8 Dwelling Units Grouping	2 1-Unit Dwellings	1 Duplex		1 4-Unit Dwelling		
9 Dwelling Units Grouping	3 1-Unit Dwellings	1 Duplex		1 4-Unit Dwelling		
10 Dwelling Units Grouping	2 1-Unit Dwellings	2 Duplexes		1 4-Unit Dwelling		
10 Dwelling Units Grouping	3 1-Unit Dwellings	1 Duplex			1 Five-Unit Dwelling	
10 Dwelling Units Grouping	2 1-Unit Dwellings	2 Duplexes		1 4-Unit Dwelling		
10 Dwelling Units Grouping	2 1-Unit Dwellings	1 Duplex	2 Triplexes			
11 Dwelling Units Grouping	3 1-Unit Dwellings	1 Duplex	2 Triplexes			
11 Dwelling Units Grouping	4 1-Unit Dwellings	2 Duplexes	1 Triplex			
11 Dwelling Units Grouping	4 1-Unit Dwellings	1 Duplex			1 5-Unit Dwelling	
11 Dwelling Units Grouping	3 1-Unit Dwellings	2 Duplexes		1 4-Unit Dwelling		
12 Dwelling Units Grouping	5 1-Unit Dwellings	1 Duplex			1 5-Unit Dwelling	
12 Dwelling Units Grouping	4 1- Unit Dwellings	2 Duplexes		1 4-Unit Dwelling		
12 Dwelling Units Grouping	4 1-Unit Dwellings	1 Duplex				1 6-Unit Dwelling
12 Dwelling Units Grouping	2 1-Unit Dwellings	2 Duplexes	2 Triplexes			
Parking						
Parking Spaces per Unit	1 Required; 2 Recommended	1 Required; 2 Recommended	1.5	1.5	1.5	1.5

4. Standards for dwelling unit area measurements shall be International Property Management Standard IPMS-3B.

5. Dwelling groupings shall be arranged around a common area free of vehicular travel.

6. Multiple compact groupings of dwelling units are permitted.

7. Nothing in these regulations that is not expressly stated within them shall limit flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking.

8. The site access requirements of NFPA 1 Chapter 18 shall apply.

9. Additions to any dwelling, principal structure, or accessory structure shall be subject to Development Review Board approval.

10. Dwellings shall be limited to two stories and the area of the second story shall not exceed the area of the first level.

11. Building height shall not exceed 30 feet.

12. Lot setbacks: front 30 feet; side 30 feet; rear 30 feet. Dwelling building side yards shall be a minimum of 15 feet and, unless each dwelling is fully-sprinklered per NFPA 13D or 13R as applicable, exterior dwelling walls closer than 20 feet shall be 1-hour fire-rated construction; architectural trim may extend into the side yard 1’-6” clearance without impacting these dimensions.

13. Dwellings closer than 30 feet between exterior walls shall have non-combustible roofs, unless each dwelling is fully-sprinklered per NFPA 13D or 13R, as applicable.

14. Opposing building faces across the common area shall be separated by a distance not less than 60 feet. Where no opposing buildings occur, the common area shall be not less than 60 feet wide.

15. Fenestration shall promote dwelling side yard visual privacy.

16. Vehicle parking shall be located at the perimeter of the dwelling groupings.

17. The total parking spaces per grouping shall be calculated by summing the parking spaces per Table 12.2.2.1 plus visitor parking. Visitor parking per grouping shall be equal to 1 space per every two dwelling units or fraction thereof.

18. For every two groupings within the same development, provide a public transport van stop with a shelter.

19. Communal use areas are strongly encouraged, including but not limited to pedestrian paths, gardens, communal vegetable gardens, garden tool sheds, dog parks, fire pits, and social gathering buildings.

20. All dwelling units shall have independent utility services.

21. Utility entrances to be located at the public street and routed to the dwelling buildings below grade.

22. Developer to contract with the Village Water Department to provide fire hydrants and fire water line extensions as necessary to satisfy NFPA 1 Chapter 18, if any.

23. Home occupations that require the frequent presence of suppliers' or customers' vehicles are prohibited. Retail uses are prohibited.

24. The parking and storage of vehicles that are in excess of 20 feet in length is permitted only in dedicated supplemental parking areas that are sized for the vehicles, do not impinge on fire truck access, and are in excess of other vehicle parking requirements.

25. In developments where construction of dwellings is phased, multi-family dwellings shall be completed prior to occupancy of single-family dwellings unless the Development Review Board approves partial occupancy and the owner of the development files with the Village of North Bennington Trustees a surety bond in form and amount approved by the Village Trustees to guarantee completion of the work.

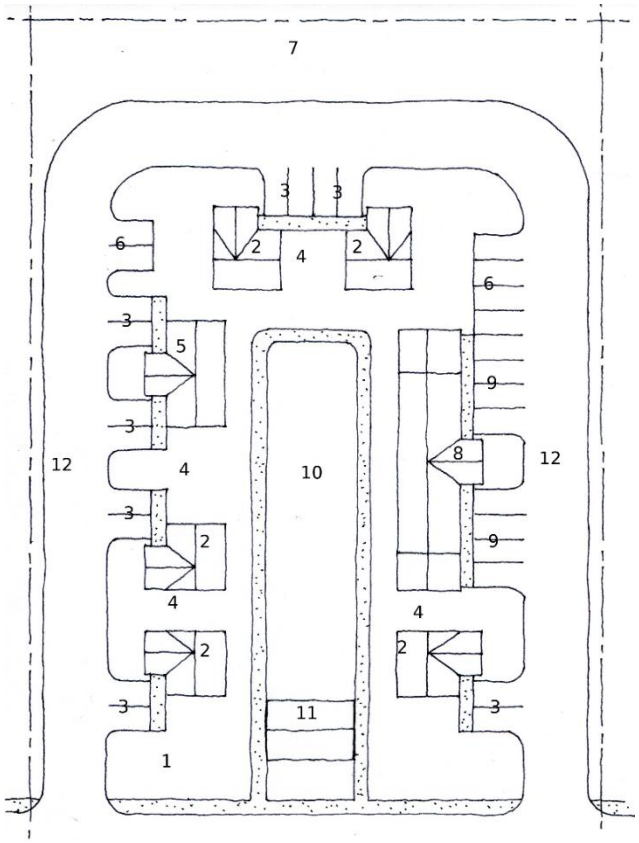
26. The architectural vernacular of the buildings shall be informed by and complement the character of the Village. Refer to Section 8 of these regulations for design recommendations.

27. Accessory Dwelling Units shall be attached and architecturally integrated with the primary dwelling.

28. Section 12.1.3 Streets applies to road, drives, and streets within Cottage Court Developments.

29. Where existing dwellings or lodgings are withing thirty feet of the development's property line, a twenty-five foot densely landscaped buffer may be required at one or more sides of the development's property.

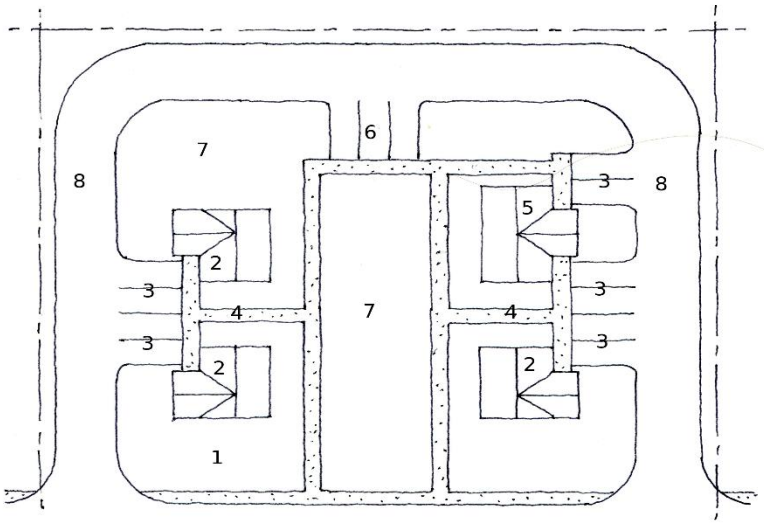
Diagram 12.4.1.2 Representative Elements of Cottage Court Housing Developments (Solely for Illustrative Purposes One Grouping of 12 Dwelling Units is Diagrammed.)



Notes corresponding to numbers on planning elements diagram above:

1. Lot Front Yard Minimum Setback of 30 feet.
2. Single Family Dwelling
3. Parking Spaces for One- and Two-Family Dwellings (1 Required; 2 Recommended)
4. Typical Dwelling Side Yard
5. Duplex Dwelling Unit
6. Visitor Parking (1 Space per 2 Dwelling Units)
7. Lot Rear Yard Setback of 30 feet.
8. Five Dwelling Unit Building
9. 1.5 Parking Space per Units in Three or More Dwelling Unit Buildings
10. Common Use Area with Provisions for Activity Areas Encouraged
11. Common Social Building, if provided.
12. Roadways Designed for Firetruck Access

Diagram 12.4.1.3 Representative Elements of Cottage Court Housing Developments (Solely for Illustrative Purposes One Grouping of 5 Dwelling Units is Diagrammed.)



Notes corresponding to numbers on planning elements diagram above:

1. Lot Front Yard Minimum Setback of 30 feet.
2. Single Family Dwelling
3. Parking Spaces for One- and Two-Family Dwellings (1 Required; 2 Recommended)
4. Typical Dwelling Side Yard
5. Duplex Dwelling Unit
6. Visitor Parking (1 Space per 2 Dwelling Units)
7. Common Use Area with Provisions for Activity Areas Encouraged
8. Roadways Designed for Firetruck Access

SECTION 13: ZONING MAP

13.1 Zoning Map Interpretation

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

1. Boundaries which appear to follow streets, railroads, or rivers and streams shall coincide with the center line thereof. Boundaries of lakes or ponds at mean water level shall follow shore lines.

2. Boundaries which appear to follow a property or lot line shall be construed to follow such property or lot lines.

3. Boundaries which appear to run parallel to the side lines of streets or railroads, or parallel to shore lines, shall be regarded as parallel to such lines. Distances not specifically indicated shall be determined from the scale of the map.

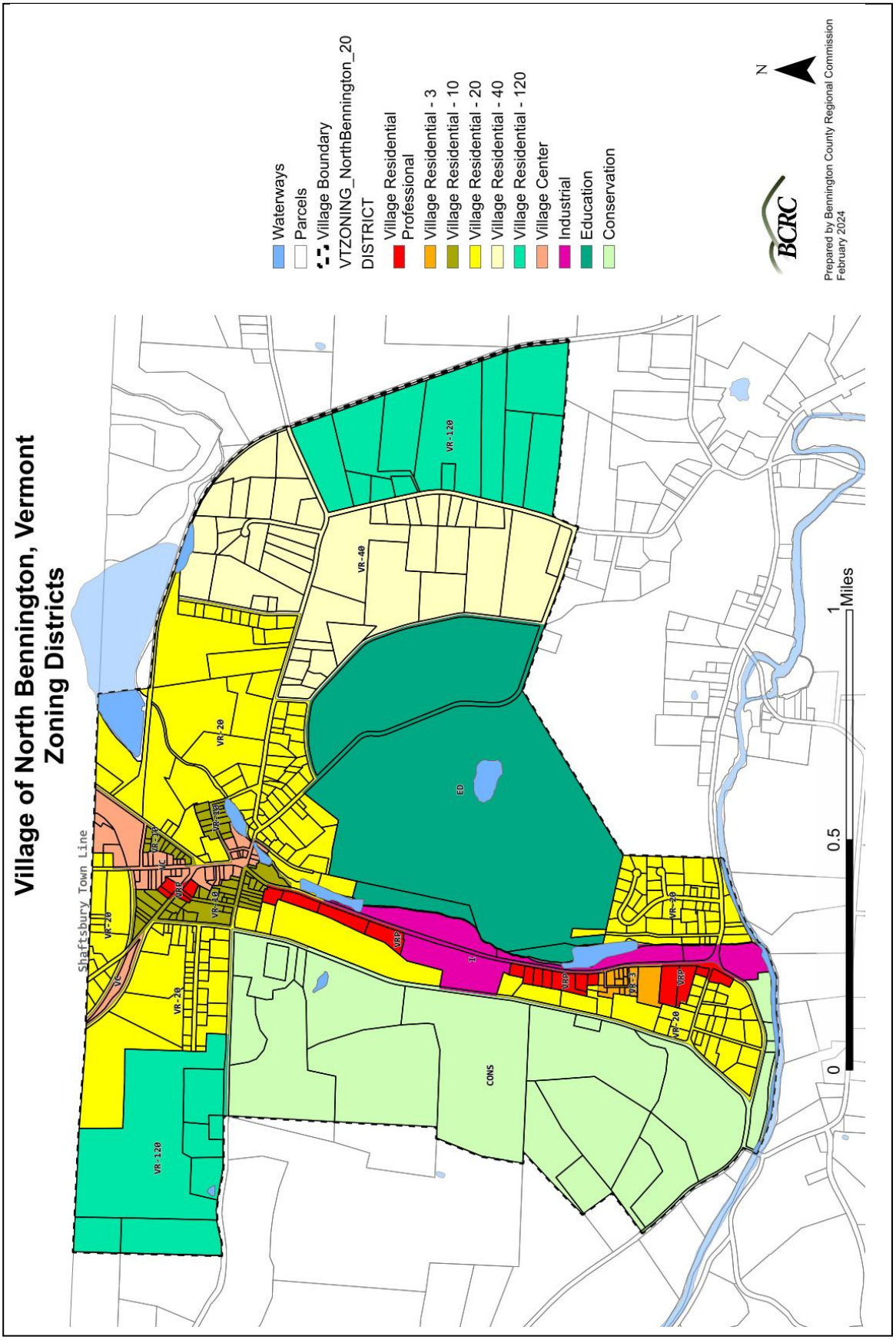
4. In the case of lots lying in more than one district, the provisions of any district may be applied for a distance of not over thirty feet into any other adjacent district.

5. When the Zoning Administrator cannot definitely determine the location of a district boundary by the scale or dimensions given on the official zoning map or by the above rules, the Planning Commission may be consulted prior to making the final determination. Any determination by the Zoning Administrator regarding the location of a district boundary may be appealed to the Development Review Board. In the case of a boundary question involving the flood hazard area, refer to Section 8 of these regulations.

13.2 Official Zoning Map

The location and boundaries of said zoning districts are established as shown on the official North Bennington, Vermont Zoning Map which shall be on file in the office of the Zoning Administrator, and said map and all explanatory matter thereon are hereby incorporated by reference as part of these regulations. No changes of any nature shall be made to the official zoning map except in conformance with zoning amendment procedures and requirements set forth in Title 24 V.S.A., Chapter 117, Sections 4441 to 4444. Notwithstanding the above, the exact boundary of the flood

hazard area depicted on the zoning map is determined by reference to the most current flood insurance maps prepared by the Federal Emergency Management Agency (see Section 9.4.1).


Village of North Bennington, Vermont
Zoning Districts
Waterways
Parcels
Village Boundary
VTZONING_NorthBennington_20
DISTRICT
Village Residential Professional
Village Residential - 3
Village Residential - 10
Village Residential - 20
Village Residential - 40
Village Residential - 120
Village Center
Industrial
Education
Conservation
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BCRC
Prepared by Bennington County Regional Commission
February 2024
Shaftsbury Town Line
VR-120
VR-40
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VR-10
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