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Town of Rupert
Land Use Regulations

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Article 1. General Provisions

Section 1.1. Title

(A) These regulations shall be known and cited as the Town of Rupert Land Use Regulations.

Section 1.2. Authority

(A) These regulations are enacted in accordance with the Vermont Planning and Development Act, 24 VSA Chapter 117, which shall be referred to in these regulations as the Act.

Section 1.3. General Purpose

(A) It is the purpose of these regulations to:

(1) Protect the public health, safety and welfare;

(2) Protect the value of property;

(3) Preserve the town's rural character of small settlements surrounded by open countryside;

(4) Preserve Rupert's small town quality of life and enhance the town's sense of community;

(5) Provide for moderate and orderly growth while retaining a base of working farm and forest land;

(6) Encourage appropriate and coordinated development of all lands in the Town of Rupert;

(7) Allow for compatible growth and development in physically suitable locations that are consistent with traditional settlement patterns and are served by existing or planned roads;

(8) Provide methods for the prevention, minimization and future elimination of such land development problems as may presently exist or which may be foreseen;

(9) Ensure that public facilities are available and will have a sufficient capacity to serve any proposed development;

(10) Ensure that the rate of growth and development does not exceed the town's ability to provide facilities and services, nor place undue burden on taxpayers;

(11) Prevent the pollution of air, streams, ponds and lakes, assure the adequacy of drainage facilities, safeguard the water tables, and to encourage the wise use and management of natural resources throughout the town in order to preserve the integrity, stability, and natural beauty of the community and the value of land;

(12) Preserve the natural beauty, topography and outdoor recreation resources of the town and to ensure appropriate development with regard to these natural features;

(13) Promote energy conservation and the sustainable use of renewable energy resources; and

(14) Implement the goals and policies set forth in the Rupert Town Plan and the Act.

Section 1.4. Applicability

(A) A permit shall be required for all land development. All land development shall conform to these regulations. Except within the Flood Hazard Overlay District, land development is defined as: [See 24 VSA § 4303]

(1) The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure;

(2) Any mining, excavation, or filling of land;

(3) Any change in use of any structure or land, or extension of use of any structure or land; or

(4) The division of a parcel into two or more parcels.

(B) Land development within the Flood Hazard Overlay District is defined in Section 2.10(L)(4).

(C) Any land development not specifically authorized under these regulations is prohibited unless specifically exempted as per Section 1.05 or Section 1.06 of these regulations.

(D) The application of these regulations is subject to all applicable provisions of the Act.

Section 1.5. State Limitations

(A) 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 the regulations do not have the effect of interfering with the intended functional use. These regulations make reasonable provision for the siting of public facilities within specified zoning districts, indicating locations deemed appropriate for such uses. If such a use is proposed in a district where it is not an allowed use, it shall be considered a conditional use for the purposes of development review and permitting. [See 24 VSA § 4413(a)]

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

(2) Public and private schools and other educational institutions certified by the state;

(3) Churches and other places of worship, convents and parish houses;

(4) Public and private hospitals;

(5) Regional solid waste management facilities certified by the state; and

(6) Hazardous waste management facilities certified by the state.

(7) Emergency shelters

(B) These regulations shall not apply to development requiring the issuance of a Certificate of Public Good by the Public Utility Commission. Such development, however, should conform to all applicable policies and objectives of the Rupert Town Plan. [See 24 VSA § 4413(b)]

(C) These regulations shall not apply to required agricultural or silvicultural practices, including the construction of farm structures, as defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forest, Parks and Recreation. [See 24 VSA § 4413(d)]

(1) A farm operator shall notify the Zoning Administrator of the intent to build a farm structure and shall abide by the setback requirements of the zoning district in which the structure will be located, as per the Secretary of Agriculture's policy. The secretary may grant a waiver to the setback requirements upon written request and after notifying the town.

(2) No town permits are required for construction of a farm structure.

(D) These regulations comply with all other limitations on municipal bylaws specified in the Act.

Section 1.6. Exemptions

(A) Except within the Flood Hazard and River Corridor Overlay Districts (see Section 2.10 and 2.11), the following projects, structures or uses do not require a town zoning permit, but shall be constructed or undertaken in accordance with the provisions of these regulations, including all setbacks and dimensional requirements unless otherwise specified in these regulations:

(1) The normal maintenance and repair of existing structures, utilities and infrastructure that does not result in any change to the footprint or height of a structure or any change in use.

(2) Interior alterations that do not result in any change in use or intensification of use, and that do not do not alter or expand the exterior of the structure.

(3) Emergency repairs as specified in Section 3.01.

(4) In all districts, no permit is required for up to 2 freestanding woodsheds, toolsheds, storage sheds, play sheds, or other such accessory building of 120 square feet or less in area and less than 10 feet in height. Such an accessory building shall comply with the setback requirements of the district in which it is located.

(5) One lightweight, portable structure not to exceed 200 square feet in floor area and 10 feet in height.

(6) Fences or walls that do not interfere with corner visibility, highway safety and road maintenance practices. [See Section 3.07. Fences]

(7) Chimneys.

(8) Patios, terraces and similar unroofed structures at grade.

(9) Residential entry stairs (excluding decks and porches), access ramps and walkways that do not obstruct public rights-of-way.

(10) Arbors, trellises, pergolas and similar decorative or support structures related to gardening use.

(11) Minor grading and excavation associated with normal road, driveway and parking area, and property maintenance.

(12) Signs listed in Section 3.16.

(13) Holiday light displays, flagpole lights and streetlights as specified in Section 3.12.

(14) Garage sales, yard sales or auctions lasting not more than 4 consecutive days and not more than a total of 12 days per calendar year.

(15) Farm stands as specified in Section 4.05.

(16) Home occupations as specified in Section 4.08.

(17) Wood processing, firewood and lumber, for personal use.

(18) Road, sidewalk, bridge, infrastructure and utility improvements and maintenance within public rights- of-way.

(19) The following types of direct broadcast satellite, broadband radio service or television broadcast antennas, which are placed on properties for the owners' or occupants' exclusive use and control:

(a) A dish antenna, not exceeding 1 meter in diameter, designed to receive direct broadcast satellite television service, wireless cable or to receive and transmit fixed wireless signals;

(b) A broadcast, radio or television antenna, which does not exceed a height of 50 feet above the lowest grade at ground level of the structure upon which it is mounted; and

(c) Ham radio antennas operated by federally licensed operators, which do not exceed a height of 50 feet above the lowest grade at ground level of the structure upon which they are mounted.

Section 1.7. Amendment

(A) Amendments to these regulations shall be prepared and adopted in accordance with the Act.

Section 1.8. Repeal of Previous Regulations

(A) These regulations are a unified development bylaw, which amend and replace Rupert's previous Zoning Bylaws and Subdivision Bylaws in their entirety. The previous bylaws shall be repealed upon adoption of these regulations.

Section 1.9. Severability

(A) The invalidity of any provision of these regulations shall not invalidate the remaining provisions.

Section 1.10. Effective Date

(A) These regulations and all subsequent amendments shall become effective upon adoption. [See 24 VSA § 4442]

Section 1.11. Prior Approvals

(A) All approved subdivision plats duly filed in the town land records before the adoption or amendment of these regulations remain valid and shall not expire.

(B) Construction approved before adoption or amendment of these regulations shall require no additional permit or permit amendment, if such construction is completed within 3 years from the date of such adoption.

(C) The town shall not require any change in plans or construction of a structure, or use, for which a permit had been issued and which has subsequently been made non-complying or non-conforming by the amendment of these regulations, if the activities authorized by the permit are completed while the permit is valid.

Article 2. Zoning Districts

Section 2.1. Establishment

(A) Zoning Districts. The following zoning districts are established in the Town of Rupert:

(Village Center (VC)

(1) Village Residential (VR)

(2) Village Neighborhood (VN)

(3) Rural Residential (RR)

(4) Agricultural (AG)

(5) Natural Resource Management (RM)

(B) Overlay Districts. The following overlay districts are established in the Town of Rupert:

(1) Flood Hazard Overlay (FHO)

(2) River Corridor Overlay (RCO)

(C) Official Zoning Map.

(1) The location and boundaries of the zoning districts are established as shown on the Official Zoning Map, which is incorporated into these regulations by reference.

(2) The Official Zoning Map shall be available for public review at the town offices during normal business hours. A small-scale, unofficial copy of the map is attached to these regulations for convenience only.

(3) If uncertainty exists with respect to the boundaries of any zoning district, other than the FHO boundary, the Planning Commission shall make a final determination of the boundary location based on a review of the best available GIS data.

(4) Where a district boundary line divides a lot, the DRB may allow the extension of the district standards for either portion of the lot up to 100 feet beyond the district line into the remaining portion of the lot as a conditional use.

(5) A parcel divided by a Town Line or State Line shall be considered one parcel and the actual boundaries of the parcel shall be used to determine required setbacks.

(D) Overlay District Maps.

(1) Official Flood Hazard Overlay Map. The location and boundaries of the Flood Hazard Overlay District are established as shown as the Special Flood Hazard Areas on the FEMA Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) as most recently amended. The FIRMs and FIS are incorporated into these regulations by reference and shall be used to determine the boundaries of the Flood Hazard Overlay District in accordance with the requirements of the federal Flood Insurance Program. The Flood Hazard Overlay District is shown on the Official Zoning Map for convenience only.

(a) Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas. Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the FHO. In Special 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.

(b) Interpretation of the FIRM. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the ZA shall determine the location of the boundary. If the applicant disagrees with the ZA's determination, a Letter of Map Amendment from FEMA shall constitute proof.

(2) River Corridor Overlay Map. The River Corridor Overlay District is depicted on the most current River Corridor (RCO) maps on file at the town offices. These maps, prepared for the Town of Rupert in accordance with state accepted stream geomorphic assessment and mapping protocols, are incorporated into these regulations by reference. If uncertainty exists with respect to the location of a district boundary, the location shall be determined by the Zoning Administrator from the map, in consultation with the Vermont River Management Program. If the applicant disagrees with the ZA's determination, a Letter of Determination from the Vermont River Management Program shall constitute proof. The River Corridor Overlay District is shown on the Official Zoning Map for convenience only.

(3) All provisions of Paragraph (C) of this section shall apply to overlay districts as they apply to zoning districts, except that where an overlay district boundary line divides a lot, the DRB shall not allow the extension of the district standards beyond the district line as per Paragraph (C)(4) of this section.

Section 2.2. Use Summary Table

		VC	VR	VN	RR	AG	RM	FC	FHO & RCO
1000	**RESIDENTIAL**								
1110	Single-family detached dwelling	P	P	P	P	P	P		
1120	Single-family attached dwelling	P	P	P	P	P	P		
1130	Two-family dwelling	P	P	P	P	P	P		
1140	Multi-family dwelling	C	C	C	C		C		
1150	Accessory dwelling unit	P	P	P	P	P	P		
1160	Mobile home park				C		C		
1170	Farm worker housing	C	C	C	C	C	C		
1180	Seasonal dwelling	P	P	P	P	P	P	P	
1210	Senior housing	C	C	C	C				
1220	Assisted living	C	C	C	C				
1230	Group home	P	P	P	P	P	P		
1310	Home occupation (includes family childcare home and B&B)	P	P	P	P	P	P		
1320	Home-based business	C	C	C	C	C	C		
1330	Residential energy generating system	P	P	P	P	P	P	P	
1340	Accessory structure or use	P	P	P	P	P	P	C	
2000	**PUBLIC AND CIVIC**								
2100	Education facility	C		C					
2200	Cultural facility	C	C	C					
2300	Religious facility	C	C	C	C				
2420	Daycare center	C	C	C	C				
2500	Healthcare facility	C	C	C					
2600	Non-commercial recreation and entertainment	C	C	C	C	C	C	C	C
2700	Civic facility	C	C	C					
2740	Cemetery	C	C	C	C	C	C		
2810	Community utilities & infrastructure	C	C	C	C	C	C	C	C
2820	Wireless communication antenna	C	C	C	C	C	C	C	
2830	Telecommunications tower				C		C	C	
2840	Parking lot or structure	C		C					
2850	Transit stop or station	C		C	C				
2860	Highway maintenance facility	P	C	C	C	C	C	C	
2870	Communications facility	C		C					
2900	Tourist information or service facility	C	C	C	C	C	C	C	

		VC	VR	VN	RR	AG	RM	FC	FHO & RCO
3000	**COMMERCIAL**								
3100	Animal services & ag-support business	C		C	C	C	C		
3200	Eating and drinking establishment	C		C					
3210	Restaurant	C	C	C	C				
3300	Financial services facility	C		C					
3400	Retail store	C		C					
3510	Gas station	C							
3520	Vehicle/equipment sales				C				
3530	Vehicle/equipment service			C	C		C		
3600	Office	C	C	C	C				
3700	Personal services facility	C	C	C	C				
3820	Inn	C	C	C	C				
3830	Boarding house	C	C	C	C				
3840	Hotel or motel	C							
3850	Rental cottages				C		C		
3860	Campground				C		C		
3870	Summer camp				C		C		
3880	Retreat center				C		C		
3900	Commercial recreation and entertainment	C			C	C	C		C
4000	**INDUSTRIAL**								
4100	Manufacturing facility			C	C				
4200	Warehouse/storage facility			C	C		C		
4300	Construction-related facility			C	C		C		
4400	Wholesale sales facility			C	C				
4500	Research and development facility	C		C	C				
4600	Artist/craftsperson work or sales facility	C	C	C	C		C		
5000	**WORKING LAND AND OPEN SPACE**								
5100	Agriculture	P	P	P	P	P	P	P	P
5200	Farm-based business	C	C	C	C	C	C		
5300	Farm product sales	C	C	C	C	C	C		
5400	Nursery			C	C	C	C		
5500	Forestry	P	P	P	P	P	P	P	P
5600	Extraction				C		C	C	
5700	Nature preserve				P	C	P	P	P
5800	Wood processing				C	C	C	C	
6000	**MIXED USE**								
6000	Mixed Use	P	P	P	P	P	P	P	P

Section 2.3. Village Center (VC) District

(A) Purpose. The purpose of this district is to recognize the village centers of Rupert and West Rupert by allowing mixed-use development that is compatible in scale and character with historic structures and traditional settlement patterns. The intent of this district is to implement the goals and policies of the Rupert Town Plan. Specifically, the town plan calls for these regulations to:

(1) Allow a mix of uses within the town's traditional hamlets including small commercial businesses, mixed uses and manufacturing enterprises that are in keeping with their scale and character;

(2) Allow for intensive residential and commercial development within designated village districts to reinforce and revitalize these areas as the town's traditional centers;

(3) Incorporate standards within designated village districts to ensure that lot size and configurations reflect traditional settlement patterns;

(4) Allow for the adaptive reuse of historic structures in a manner that maintains their historic integrity and character; and

(a) Reinforce the town's traditional settlement pattern by locating public facilities that serve as focal points of the community and are intended for public access within hamlets.

(B) Permitted Uses			(C) Conditional Uses	
Residential			**Residential**	
1110	Single-family detached dwelling		1140	Multi-family dwelling more than2 units
1130	Two-family dwelling		1180	Farm worker housing
			1210	Senior housing
1150	Accessory dwelling unit		1220	Assisted living
1230	Group home		1320	Home-based business
1310	Home occupation (including family childcare home and B&B)		1330	Residential energy generating system
1340	Accessory structure or use		**Public and Civic**	
Public and Civic			2100	Education facility
2860	Highway Maintenance Facility		2200	Cultural facility
Working Land and Open Space			2300	Religious facility
5100	Agriculture		2420	Daycare center
5500	Forestry		2500	Healthcare facility
Mixed Use			2600	Non-commercial rec & entertainment
6000	Mixed Use		2700	Civic facility
			2740	Cemetery
			2810	Community utilities & infrastructure
			2820	Wireless telecommunications antenna
			2840	Parking lot or structure
			2850	Transit stop or station
			2870	Communications facility
			2900	Tourist information or service facility

(C) Conditional Uses	
Commercial	
3100	Animal services & ag-support business
3200	Eating and drinking establishment
3300	Financial services facility
3400	Retail store
3510	Gas station
3600	Office
3700	Personal service facility
3820	Inn
3830	Boarding house
3840	Hotel or motel
3900	Commercial recreation & entertainment
Industrial	
4500	Research and development facility
4600	Artist/craftperson work or sales facility
Working Land and Open Space	
5200	Farm-based business
5300	Farm product sales

(D)Dimensional Standards

Lots		Minimum	Maximum
(1)	Lot Size	10,000 sq ft	n/a
(2)	Lot Frontage	50 ft	n/a
(3)	Lot Depth	100 ft	n/a
(4)	Lot Coverage	n/a	50%
Principal Structures		Minimum	Maximum
(5)	Front Setback	5 ft	40 ft
(6)	Side Setback	5 ft	n/a
(7)	Rear Setback	25 ft	n/a
(8)	Height		
	residential	1 story	3 stories
	non-residential & mixed use	2 stories	3 stories
(9)	Footprint		
	residential	n/a	3,000 sq ft
	non-residential & mixed use	n/a	4,000 sq ft
Accessory Structures		Minimum	Maximum
(10)	Front Setback	same as principal structures	n/a
(11)	Side Setback	5 ft	n/a
(12)	Rear Setback	10 ft	n/a
(13)	Height	n/a	2 stories
(14)	Footprint	n/a	%

Note: The DRB may waive the maximum footprint for Public and Civic uses in excess of the waiver percentage specified in Table 7-A (see Section 7.07).

Section 2.4. Village Neighborhood (VN) District

(A) Purpose. This district is intended to provide opportunity for compact growth and development in proximity to the town's traditional villages and settlements. The purpose of this district is to implement the goals and policies of the Rupert Town Plan. Specifically, the town plan calls for these regulations to:

(1) Allow a mix of uses within the town's traditional hamlets including small commercial businesses, mixed uses and manufacturing enterprises that are in keeping with their scale and character;

(2) Allow for intensive residential and commercial development within designated village districts to reinforce and revitalize these areas as the town's traditional centers; and

(3) Incorporate standards within designated village districts to ensure that lot size and configurations reflect traditional settlement patterns.

(B) Character. The desired character within this zoning district is that of largely residential neighborhoods in traditional New England villages, which are places that:

(1) Are compact and walkable; a walkable neighborhood is defined by the distance a person can walk in about 10 minutes.

(2) Have a diversity of housing types and a mix of neighborhood uses. Neighborhoods should have homes that are attractive and well sited on reasonably sized lots with private outdoor spaces. Lot sizes should vary to cater to multiple market segments. Differences in building design, architectural detail, landscaping, and setbacks should break the mold of a cookie cutter pattern. Housing types, shapes and materials should be varied. In addition to detached single-family homes, development of attached units, two-family dwellings, multi-family dwellings and accessory dwellings is encouraged. Multi- family and attached dwellings should be designed to resemble large single-family residences.

(3) The public face of most houses (front door, porch, front yard) should face the street. Within any single residential development, at least one-third of the single-family homes should have a covered front entry porch. The visual impact of garage doors facing the street should be minimized by siting the garage to face the side or back of the lot if feasible. When the garage must face the street, it should be set back from the front facade so the front door of the home is prominent.

(4) Integrate new streets to be interconnect with existing streets; dead end roads are discouraged. Streets should be narrow and designed to minimize speeding and shortcuts. They should also have pedestrian links via sidewalks and/or paths, where feasible.

(5) Have a human scale that makes people feel comfortable in them. Civic amenities, landscaped streets, shaded sidewalks, and open space should enrich the quality of life in these neighborhoods.

(6) Offer a connection to nature through open space. Open spaces may include formal elements (tree lined streets, walkways, parks, greens), recreational elements (playgrounds, fields, courts) and informal elements (trails, buffer zones, wildlife habitat, preserved natural features, scenic views). All three types of open space contribute to a livable neighborhood that balances the public with the private, and the convenient access of a village center with the natural beauty and tranquility of a rural community.

(C) Permitted Uses			(D) Conditional Uses	
Residential			**Residential**	
1110	Single-family detached dwelling		1120	Single-family attached dwelling
1130	Two-family dwelling		1140	Multi-family dwelling more than 2 units
			1180	Farm worker housing
1150	Accessory dwelling unit		1210	Senior housing
1230	Group home		1220	Assisted living
1310	Home occupation (including family childcare home and B&B)		1320	Home-based business
1340	Accessory structure or use		1330	Residential energy generating system
Working Land and Open Space			**Public and Civic**	
5100	Agriculture		2100	Education facility
5500	Forestry		2200	Cultural facility
			2300	Religious facility
			2420	Daycare center (other than family childcare home)
			2500	Healthcare facility
			2600	Non-commercial rec & entertainment
			2700	Civic facility
			2810	Community utilities & infrastructure
			2820	Wireless telecommunications antenna
			2840	Parking lot or structure
			2850	Transit stop or station
			2860	Highway maintenance facility
			2870	Communications facility
			2900	Tourist information or service facility
			Commercial	
			3100	Animal services & ag-support business
			3200	Eating and drinking establishment
			3300	Financial services facility
			3400	Retail store
			3530	Vehicle/equipment service
			3600	Office
			3700	Personal service facility
			3820	Inn
			3830	Boarding house
			Industrial	
			4100	Manufacturing facility
			4200	Warehouse/storage facility
			4300	Construction-related facility
			4400	Wholesale facility
			4500	Research and development facility
			4600	Artist/craftperson work or sales facility

(D) Conditional Uses

Working Land and Open Space	
5200	Farm-based business
5300	Farm product sales
5400	Nursery
Mixed Use	
6000	Mixed Use

(E) Dimensional Standards

Lots		Minimum	Maximum
(1)	Lot Size	20,000 sq ft	n/a
(2)	Lot Frontage	75 ft	n/a
(3)	Lot Depth	150 ft	n/a
(4)	Lot Coverage	n/a	50%
Principal Structures		Minimum	Maximum
(5)	Front Setback	15 ft	50 ft
(6)	Side Setback	10 ft	n/a
(7)	Rear Setback	20 ft	n/a
(8)	Height	n/a	3 stories
(9)	Footprint	n/a	3,000 sq ft
Accessory Structures		Minimum	Maximum
(10)	Front Setback	same as principal structures	n/a
(11)	Side Setback	10 ft	n/a
(12)	Rear Setback	5 ft	n/a
(13)	Height	n/a	2 stories
(14)	Footprint	n/a	1,500 sq ft

Note: The DRB may waive the maximum footprint for Public and Civic uses in excess of the waiver percentage specified in Table 7-A (see Section 7.07).

(F) District Standards.

(1) Drive-thrus shall be prohibited.

(2) Multi-family dwellings containing up to two dwelling units in the VN District may be permitted administratively when found to meet all applicable standards and state permitting requirements. Multi-family dwellings with more than two dwelling units are conditionally permitted in the VN District.

Section 2.5. Village Residential (VR) District

(A) Purpose. The purpose of this district is to recognize the settlements of North and East Rupert by allowing development that is compatible in scale and character with historic structures, traditional settlement patterns and current residential land uses. Further, it is the intent of this district to implement the goals and policies of the Rupert Town Plan as most recently amended. Specifically, the town plan calls for these regulations to:

(1) Incorporate standards within designated village districts to ensure that lot size and configurations reflect traditional settlement patterns; and

(2) Allow for the adaptive reuse of historic structures in a manner that maintains their historic integrity and character.

(B) Permitted Uses			(C) Conditional Uses	
Residential			**Residential**	
1110	Single-family detached dwelling		1140	Multi-family dwelling more than 2 units
1130	Two-family dwelling		1180	Farm worker housing
1140			1210	Senior housing
1150	Accessory dwelling unit		1220	Assisted living
1230	Group home		1320	Home-based business
1310	Home occupation (including family childcare home and B&B)		1330	Residential energy generating system
1340	Accessory structure or use		**Public and Civic**	
Working Land and Open Space			2200	Cultural facility
5100	Agriculture		2300	Religious facility
5500	Forestry		2420	Daycare center
			2500	Healthcare facility
			2600	Non-commercial rec & entertainment
			2700	Civic facility
			2740	Cemetery
			2810	Community utilities & infrastructure
			2820	Wireless telecommunications antenna
			2860	Highway maintenance facility
			2900	Tourist information or service facility
			Commercial	
			3200	Eating and drinking establishment
			3600	Office
			3700	Personal service facility
			3820	Inn
			Working Land and Open Space	
			5200	Farm-based business
			5300	Farm product sales
			Mixed Use	
			6000	Mixed Use

(D) Dimensional Standards

Lots		Minimum	Maximum
(1)	Lot Size	1 acre	n/a
(2)	Lot Frontage	100 ft	n/a
(3)	Lot Depth	200 ft	n/a
(4)	Lot Coverage	n/a	50%
Principal Structures		Minimum	Maximum
(5)	Front Setback	15 ft	40 ft
(6)	Side Setback	10 ft	n/a
(7)	Rear Setback	20 ft	n/a
(8)	Height	n/a	3 stories
(9)	Footprint	n/a	3,000 sq ft
Accessory Structures		Minimum	Maximum
(10)	Front Setback	same as principal structures	n/a
(11)	Side Setback	5 ft	n/a
(12)	Rear Setback	55 ft	n/a
(13)	Height	n/a	2 stories
(14)	Footprint	n/a	1,500 sq ft

Note: The DRB may waive the maximum footprint for Public and Civic uses in excess of the waiver percentage specified in Table 7-A (see Section 7.07).

(E) District Standards.

(1) Drive-thrus shall be prohibited.

(2) Multi-family dwellings containing up to two dwelling units in the VR District may be permitted administratively when found to meet all applicable standards and state permitting requirements. Multi-family dwellings with more than two dwelling units are conditionally permitted in the VR District.

Section 2.6. Rural Residential (RR) District

(A) Purpose. The intent of this district is to allow for rural residential and resource-based uses in areas that are generally accessible from town roads, close to existing development, not characterized by significant natural constraints to development, and/or less well-suited for productive use. Clustering of residential development on smaller lots is strongly encouraged to protect rural character, retain open space and preserve working lands. The purpose of this district is to implement the goals and policies of the Rupert Town Plan. Specifically, the town plan calls for these regulations to:

(1) Allow for new residential development in areas served by existing roads;

(2) Support the efficient use of land;

(3) Allow for resource-based industries in appropriate locations to include an adequate land base for farming and forestry, needed support services and value-added production; and

(4) Allow home-based businesses in suitable rural locations.

(B) Permitted Uses			(C) Conditional Uses	
Residential			**Residential**	
1110	Single-family detached dwelling		1120	Single-family attached dwelling
1130	Two-family dwelling		1140	Multi-family dwelling more than 2 units
1150	Accessory dwelling unit		1170	Mobile home park
1190	Seasonal dwelling		1180	Farm worker housing
1230	Group home		1210	Senior housing
1310	Home occupation (including family childcare home and B&B)		1220	Assisted living
1340	Accessory structure or use		1320	Home-based business
Working Land and Open Space			1330	Residential energy generating system
5100	Agriculture		**Public and Civic**	
5500	Forestry		2300	Religious facility
5700	Nature preserve		2420	Daycare center
			2600	Non-commercial rec & entertainment
			2810	Community utilities & infrastructure
			2820	Wireless telecommunications antenna
			2830	Telecommunications tower
			2850	Transit stop or station
			2860	Highway maintenance facility
			2900	Tourist information or service facility
			Commercial	
			3100	Animal services & ag-support business
			3210	Restaurant
			3300	Financial services facility
			3520	Vehicle/equipment sales or rental
			3530	Vehicle/equipment service
			3600	Office
			3700	Personal service facility
			3820	Inn

(B) Permitted Uses			(C) Conditional Uses	
			3830	Boarding house
			3850	Rental cottage
			3860	Campground
			3870	Summer camp
			3880	Retreat center
			3900	Commercial recreation & entertainment
			Industrial	
			4100	Manufacturing facility
			4200	Warehouse/storage facility
			4300	Construction-related facility
			4400	Wholesale facility
			4500	Research and development facility
			4600	Artist/craftsperson work or sales facility
			Working Land and Open Space	
			5200	Farm-based business
			5300	Farm product sales
			5400	Nursery
			5600	Extraction
			Mixed Use	
			6000	Mixed Use

(D) Dimensional Standards

Density		Minimum	Maximum
(1)	Density	n/a	1 dwelling unit or principal use per 5 acres
Lots		**Minimum**	**Maximum**
(2)	Lot Size	1 acre	n/a
(3)	Lot Frontage	100 ft	n/a
(4)	Lot Coverage	n/a	50% max for all structures
Principal Structures		**Minimum**	**Maximum**
(5)	Front Setback	30 ft	n/a
(6)	Side Setback	20 ft	n/a
(7)	Rear Setback	20 ft	n/a
(8)	Height	n/a	2 stories
(9)	Footprint	n/a	3,000 sq ft
Accessory Structures		**Minimum**	**Maximum**
(10)	Front Setback	30 ft	n/a
(11)	Side Setback	10 ft	n/a
(12)	Rear Setback	10 ft	n/a
(13)	Height	n/a	2 stories

Note: The DRB may waive the maximum footprint for Public and Civic uses in excess of the waiver percentage specified in Table 7-A (see Section 7.07).

Section 2.7. Agricultural (AG) District

(A) Purpose. This district recognizes the productive value of the lands in the Mettawee Valley and the importance of agriculture to the town's economy, character and way of life. It is the intent of this district to allow for a range of working land and open space uses, as well as opportunities for the natural-resource based, farm-based and agricultural-support businesses that are integral to maintaining a viable rural economy. The purpose of this district is to implement the goals and policies of the Rupert Town Plan. Specifically, the Town Plan calls for these regulations to:

(1) Allow for resourced-based industries in appropriate locations to include an adequate land base for farming and forestry, needed support services and value-added production;

(2) Support the efficient use of land; and

(3) Incorporate standards that minimize the fragmentation of important agricultural land and forested wildlife habitat.

(B) Permitted Uses			(C) Conditional Uses	
Residential			**Residential**	
1110	Single-family detached dwelling		1180	Farm worker housing
1130	Two-family dwelling		1330	Residential energy generating system
1150	Accessory dwelling unit		**Public and Civic**	
1190	Seasonal dwelling		2600	Non-commercial rec & entertainment
1230	Group home		2740	Cemetery
1310	Home occupation (including family childcare home and B&B)		2810	Community utilities & infrastructure
1340	Accessory structure or use		2820	Wireless telecommunications antenna
Working Land and Open Space			2860	Highway maintenance facility
5100	Agriculture		2900	Tourist information or service facility
5500	Forestry		**Commercial**	
			3100	Animal services & ag-support business
			3900	Commercial recreation & entertainment
			Working Land and Open Space	
			5200	Farm-based business
			5300	Farm product sales
			5400	Nursery
			5700	Nature preserve
			Mixed Use	
			6000	Mixed Use

(D)Dimensional Standards

Density		Minimum	Maximum
(1)	Density	n/a	1 dwelling unit or principal use per 25 acres
Lots		**Minimum**	**Maximum**
(2)	Lot Size	1 acre	n/a
(3)	Lot Frontage	100 ft	n/a
(4)	Lot Coverage	n/a	10%
Principal Structures		**Minimum**	**Maximum**
(5)	Front Setback	50 ft	n/a
(6)	Side Setback	25 ft	n/a
(7)	Rear Setback	20 ft	n/a
(8)	Height	n/a	2 stories
(9)	Footprint	n/a	4,000 sq ft
Accessory Structures		**Minimum**	**Maximum**
(10)	Front Setback	50 ft	n/a
(11)	Side Setback	10 ft	n/a
(12)	Rear Setback	10 ft	n/a
(13)	Height	n/a	2 stories

Note: The DRB may waive the maximum footprint for Public and Civic uses in excess of the waiver percentage specified in Table 7-A (see Section 7.07).

Section 2.8. Resource Management (RM) District

(A) Purpose. The purpose of this district is to implement the goals and policies of the Rupert Town Plan . Specifically, the Town Plan calls for these regulations to:

(1) Allow for resource-based industries in appropriate locations to include an adequate land base for farming and forestry, needed support services and value-added production;

(2) Support the efficient use of land;

(3) Allow home-based businesses in suitable rural locations;

(4) Incorporate standards that minimize the fragmentation of important agricultural land and forested wildlife habitat; and

(5) Require the designation of development envelopes on proposed subdivision plats, along with maximum area and siting requirements, to ensure that new development will be located to avoid adverse impacts to important natural and scenic resources and environmentally sensitive areas.

(B) Permitted Uses			(C) Conditional Uses	
Residential			**Residential**	
1110	Single-family detached dwelling		1120	Single-family attached dwelling
1130	Two-family dwelling		1140	Multi-family dwelling more than 2 units
1150	Accessory dwelling unit		1170	Mobile home park
1230	Group home (within existing residence)		1180	Farm worker housing
1310	Home occupation (including family childcare home and B&B)		1190	Seasonal dwelling
Working Land and Open Space			1330	Residential energy generating system
5100	Agriculture		1340	Accessory structure or use
5500	Forestry		**Public and Civic**	
5700	Nature preserve		2600	Non-commercial rec & entertainment
			2810	Community utilities & infrastructure
			2820	Wireless telecommunications antenna
			2830	Telecommunications tower
			2860	Highway maintenance facility
			2900	Tourist information or service facility
			Commercial	
			3100	Animal services & ag-support business
			3530	Vehicle/equipment service
			3850	Rental cottage
			3860	Campground
			3870	Summer camp
			3880	Retreat center
			3900	Commercial recreation & entertainment
			Industrial	
			4200	Warehouse/storage facility
			4300	Construction-related facility
			4600	Artist/craftsperson work or sales facility

(C) Conditional Uses	
Working Land and Open Space	
5600	Extraction
Mixed Use	
6000	Mixed Use

(D)Dimensional Standards

Density			
(1)	Residential Density	In order to minimize the fragmentation of the town's working lands, maximum residential density shall be calculated based on the sliding scale below.	
		Acreage	Dwelling Units
		< 20.0	1
		20.0 to 39.9	2
		40.0 to 59.9	3
		60.0 to 89.9	4
		90.0 to 119.9	5
		120.0 to 149.9	6
		150.0 to 199.9	7
		200.0 to 224.9	8
		225.0 to 274.9	9
		275.0 to 329.9	10
		330.0 or greater	1 dwelling unit per 30 acres
Lots		Minimum	Maximum
(2)	Lot Size	1 acre	n/a
(3)	Lot Frontage	100 ft	n/a
(4)	Lot Coverage	n/a	10%
Principal Structures		Minimum	Maximum
(5)	Front Setback	50 ft	n/a
(6)	Side Setback	25 ft	n/a
(7)	Rear Setback	20 ft	n/a
(8)	Height	n/a	2 stories
(9)	Footprint	n/a	4,000 sq ft
Accessory Structures		Minimum	Maximum
(10)	Front Setback	50 ft	n/a
(11)	Side Setback	10 ft	n/a
(12)	Rear Setback	10 ft	n/a
(13)	Height	n/a	2 stories
Note: The DRB may waive the maximum footprint for Public and Civic uses in excess of the waiver percentage specified in Table 7-A (see Section 7.07).			

(E) District Standards.

(1) Ridgeline Development Prohibited. Structures and associated site development, including tree clearing, shall be prohibited within 100 vertical feet of any ridgeline.

Section 2.9. Forest conservation district

(A) Purpose. The intent of the Natural Resource Management District (2021 Town Plan Forest Conservation) is to preserve the town's most productive forestland and other natural open space and limit development within the town's forested and upland areas that have limited accessibility from the town's public road network. These lands are recognized in the Rupert Town Plan as environmentally sensitive and it is the purpose of this district to implement the plan's goals and policies. Specifically, the Town Plan calls for these regulations to:

(1) Incorporate standards that minimize the fragmentation of important agricultural land and forested wildlife habitat; and

(2) Require the designation of development envelopes on proposed subdivision plats, along with maximum area and siting requirements, to ensure that new development will be located to avoid adverse impacts to important natural and scenic resources and environmentally sensitive areas.

(B) Permitted Uses			(C) Conditional Uses	
Working Land and Open Space			**Residential**	
5100	Agriculture		1190	Seasonal dwelling
5500	Forestry		1330	Residential energy generating system
5700	Nature preserve		1340	Accessory structure or use
			Public and Civic	
			2600	Non-commercial rec & entertainment
			2810	Community utilities & infrastructure
			2820	Wireless telecommunications antenna
			2830	Telecommunications tower
			2860	Highway maintenance facility
			2900	Tourist information or service facility
			Working Land and Open Space	
			5600	Extraction
			Mixed Use	
			6000	Mixed Use

(D) Dimensional Standards			
Density			
(1)	Only one seasonal dwelling per lot		
Lots		Minimum	Maximum
(2)	Lot Size	30 acres	n/a
(3)	Lot Frontage	75 ft	n/a
(4)	Lot Coverage	n/a	
Structures		Minimum	Maximum
(5)	Front Setback	50 ft	n/a
(6)	Side Setback	50 ft	n/a
(7)	Rear Setback	20 ft	n/a
(8)	Height	n/a	35 ft

Section 2.10. Flood Hazard Overlay (FHO) District

(A) Purpose. This overlay district includes the Special Flood Hazard Area as established by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs), as most recently amended. The purpose of the Flood Hazard Overlay District is to promote public health, safety and welfare by preventing or minimizing hazards to life or property due to flooding. It is the intent of the Town of Rupert to limit future development and prohibit the construction of new buildings within identified flood hazard areas. It is also the town's intent to meet the requirements of state and federal law in order to ensure that private property owners are eligible for flood insurance through the National Flood Insurance Program. Further it is the purpose of this section to:

(1) Implement the goals, policies, and recommendations of the Rupert Town Plan;

(2) Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;

(3) Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public health, safety and welfare, does not impair stream equilibrium, flood plain services, or the stream corridor;

(4) Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and

(5) Make the Town of Rupert, its citizens and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

(B) Applicability. A zoning permit is required for all development, including interior modifications and normal maintenance of buildings, in the FHO. The ZA shall only issue a permit on condition that all other necessary permits from state or federal agencies are received before work begins. The applicant shall submit a Vermont Agency of Natural Resources Project Review Sheet identifying all state and federal permits required with an application for a zoning permit.

(C) Exemptions. Notwithstanding the provisions of Sections 1.05 and 1.06 of these regulations, only the following activities shall be exempt from review under this section:

(1) The removal of a building or other structure in whole or in part;

(2) Maintenance of existing roads and storm water drainage;

(3) Forestry conducted in accordance with Best Management Practices; and

(4) Agriculture conducted in accordance with Required Agricultural Practices.

(D) Definitions. Terms in this section shall be defined as per 44 CFR 60.3; the federal definitions for the most common terms are provided in Paragraph (L) of this section.

(E) Precedence. Where the provisions of the FHO conflict with any other provisions of these regulations, the more stringent shall apply.

(F) Disclaimer of Liability. This section does not imply that land outside the FHO will be free from flood or erosion damages. This section shall not create liability on the part of the Town of Rupert, or any municipal official or employee, for any flood or erosion damages that result from reliance on, or any administrative decision lawfully made under these regulations.

(G) Permitted Uses			(H) Conditional Uses The following uses may be allowed as conditional uses within the FHO if they are allowed as permitted or conditional uses within the underlying district	
Working Land and Open Space			**Public and Civic**	
5100	Agriculture		2600	Non-commercial rec & entertainment
5500	Forestry		2810	Community utilities & infrastructure
5700	Nature preserve		**Commercial**	
			3900	Commercial recreation & entertainment

(I) Dimensional Standards. As specified in the underlying district.

(J) District Standards.

(1) New Buildings Prohibited. Construction or placement of new buildings shall be prohibited within the FHO.

(2) Fill Prohibited. Fill not associated with an allowed use shall be prohibited.

(3) General Standards. The following shall apply to substantial improvements to existing structures and other new development within the FHO.

(a) All development shall be:

(i) Reasonably safe from flooding;

(ii) Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;

(iii) Constructed with materials resistant to flood damage;

(iv) Constructed by methods and practices that minimize flood damage;

(v) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(vi) Adequately drained to reduce exposure to flood hazards;

(vii) Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and

(viii) Required to locate any fuel storage tanks (as needed to serve an existing building in the FHO) a minimum of 1 foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

(b) Structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located so that the lowest floor is at least 1 foot above base flood elevation, this shall be documented, in as-built condition, with a FEMA Elevation Certificate.

(c) Where base flood elevations and/or floodway limits have not been determined, development shall not be allowed 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 foot at any point within the community. The demonstration shall be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

(d) Structures to be substantially improved should be accessible by dry land access outside the FHO.

(4) Manufactured Homes. Manufactured homes to be replaced or substantially improved within the FHO shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.

(5) Non-Residential Structures. Non-residential structures to be substantially improved shall either meet the standards of Subparagraph (J)(3)(b) or have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that 2 feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for flood proofing shall not be issued until a 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 subparagraph.

(6) Basements. The following shall apply to fully enclosed areas below the lowest floor in buildings being substantially improved:

(a) Fully enclosed areas that are below grade on all sides (including below grade crawlspaces and basements) shall be prohibited.

(b) Fully enclosed areas that are above grade, below the lowest floor, below the base flood elevation and subject to flooding shall:

(i) Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,

(ii) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall 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 1 square inch for every 1 square foot of enclosed area subject to flooding shall be provided.
- The bottom of all openings shall be no higher than 1 foot above grade.
- Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(7) Accessory Structures. A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation, provided the structure:

(a) Shall be used only for parking or storage of non-hazardous material;

(b) Shall be designed to have low flood damage potential;

(c) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(d) Shall provide a minimum of two openings having a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than 1 foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;

(e) Shall be firmly anchored to prevent flotation; and,

(f) Shall have service facilities such as electrical and heating equipment, elevated or flood proofed to at least one foot above base flood elevation.

(8) Recreational Vehicles. Recreational vehicles on sites within special flood hazard areas shall be either:

(a) On the site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or

(b) Permitted in accordance with the elevation and anchoring requirements for manufactured homes in Subparagraph (J)(3).

(9) Water Supply Systems. Replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

(10) Wastewater Systems. Replacement on-site waste disposal systems shall be located and development of sanitary sewer systems shall be designed to avoid impairment to them or contamination from them during flooding.

(11) Public Utilities. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

(12) Bridges and Culverts. Bridges and culverts, which by their nature must be placed in or over the stream, shall have a stream alteration permit from the Agency of Natural Resources.

(13) Floodways. 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:

(a) Not result in any increase in flood levels during the occurrence of the base flood; and

(b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

(14) Streams. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.

(15) Nonconformities. In addition to the standards of Section 3.11 of these regulations, the DRB shall regulate the replacement or expansion of nonconformities within the FHO in accordance with the all of the following:

(a) The proposed development complies with all the standards of this district.

(b) A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure shall be rebuilt to 1 foot or more above the base flood elevation, and the structure shall otherwise comply with all requirements of the National Flood Insurance Program.

(c) Notwithstanding the provisions of Section 3.01, nonconformities within the FHO shall be considered abandoned when they are discontinued for more than 12 months.

(K) Special Administrative Requirements Applying to the FHO. Referral. Upon receipt of a complete application for a substantial improvement or new construction within the FHO, the ZA shall submit a copy of the application and supporting information to the state's National Flood Insurance Program Coordinator. This shall constitute the ZA acting on the permit as required by 24 VSA Chapter 117. The ZA shall not issue a permit until receiving comments from the coordinator or the expiration of 30 days from the date the application was mailed to the coordinator, whichever is sooner. If the application is for the alteration or relocation of a watercourse, the ZA shall also submit a copy of the application to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers.

(1) Records. The ZA shall properly file and maintain:

(a) An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current FIRM) of the lowest floor, including the basement, of all new, substantially improved, or flood-proofed buildings (not including accessory buildings) in the FHO.

(b) All flood proofing and other certifications required under this section.

(2) Certificate of Occupancy. No permitted structure shall be occupied or permitted use commenced within the FHO until the ZA has issued a Certificate of Occupancy stating that the structure or use conforms to the requirements of these bylaws and all conditions of its permit. Upon the permittee requesting a Certificate of Occupancy, the ZA shall inspect the premises to determine whether all work has been completed in conformance with its permit. If the ZA finds the work to be in violation of its permit, the ZA shall pursue the violation in accordance with Section 7.19 of these regulations and shall not issue a Certificate of Occupancy until the violation is resolved. The ZA's failure to act within 14 days of receiving a request for a Certificate of Occupancy shall be deemed approval.

(L) Special Definitions Applying within the FHO.

(1) Base flood means the flood having a 1% chance of being equaled or exceeded in any given year (commonly referred to as the 100-year flood).

(2) Base flood elevation (BFE) is the elevation of the water surface elevation resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

(3) Basement means any area of the building having its floor elevation below ground level on all sides.

(4) Development means any human-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.

(5) Flood means

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; or

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

(6) Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

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

(8) Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.

(9) 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.

(10) 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. This is also the definition of the regulatory floodway in the Town of Rupert.

(11) Historic structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior in states without approved programs.

(12) Letter of Map Amendment (LOMA) is a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor.

(13) Lowest floor means the lowest floor of the lowest enclosed area, including basement, except 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 44 CFR 60.3.

(14) 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.

(15) New construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

(16) 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 a temporary living quarters for recreational, camping, travel, or seasonal use.

(17) Special Flood Hazard Area is the floodplain within a community subject to a 1% or greater chance of flooding in any given year. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency.

(18) Start of construction determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The start of construction includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless of whether that alteration affects the external dimensions of the building.

(19) Structure means a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

(20) Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50% of the market value of the structure before the damage occurred.

(21) Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure after the effective date of these regulations, the cost of which, over 3 years, or over the period of a common plan of development, cumulatively equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the ZA or state code enforcement official and which are the minimum necessary to assure safe living conditions or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(22) Violation means the failure of a structure or other development to be fully compliant with these regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

Section 2.11. River Corridor Overlay (RCO) District

(A) Purpose. This overlay district includes all River Corridor Areas as established by the Vermont River Management Program. The purpose of the River Corridor Overlay District is to:

(1) Implement related goals, policies, objectives, and recommendations of the Rupert Town Plan, the town's hazard mitigation plan, and supporting river corridor management plans.

(2) Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flood-related erosion.

(3) Protect mapped river corridor areas that are highly subject to erosion due to naturally occurring stream channel migration and adjustment.

(4) Limit new development and prohibit the development of new buildings within river corridor areas to protect public safety and to minimize property loss and damage due to fluvial erosion.

(5) Allow rivers and streams to maintain or re-establish their natural equilibrium, thereby avoiding the need for costly and environmentally degrading stream channelization and bank stabilization measures.

(B) River Corridor Boundaries. This article applies to the mapped River Corridors in the Town of Rupert, Vermont, as published by the Agency of Natural Resources (ANR) including refinements to that data which are hereby adopted by reference.

(1) On streams with a watershed size greater than half a square mile for which River Corridors are not mapped, the standards shall apply to the area measured as 50 feet from the top of the stream bank or slope.

(2) The information presented on any maps, or contained in any studies adopted by reference, is presumed accurate. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary on the property shall be determined by the Zoning Administrator (ZA).

(3) If the applicant disagrees with the determination made by the ZA or with the river corridor as mapped, the applicant has the option to either:

(4) Hire a licensed land surveyor or registered professional engineer to stake out the River Corridor boundary as mapped on the property; or,

(5) Provide data as needed for ANR to update the river corridor map following the Flood Hazard Area and River Corridor Protection Procedure ("Procedure"); or

(6) Request a letter of determination from ANR that the proposed development meets the Performance standard in the Procedure.

(C) Exemptions. Notwithstanding the provisions of Sections 1.05 and 1.06 of these regulations, only the following activities shall be exempt from review under this section:

(1) The removal of a building or other structure in whole or in part;

(2) Maintenance of existing roads, sidewalks, parking areas, storm water drainage, bridges, culverts, and channel stabilization;

(3) Forestry conducted in accordance with Best Management Practices; and

(4) Agriculture conducted in accordance with Required Accepted Agricultural Practices.

(D) Prohibited Development.

(1) New structures, fill, and development that do not meet the standards in Section 2.11(J) District Standards;

(2) Any other development that is not exempt, permitted, or listed as a conditional use which would cause or contribute to fluvial erosion hazards.

(E) Precedence. Where the provisions of the RCO conflict with any other provisions of these regulations, the more stringent shall apply.

(F) Disclaimer of Liability. This section does not imply that land outside the RCO will be free from flood or erosion damages. This section shall not create liability on the part of the Town of Rupert, or any municipal official or employee, for any flood or erosion damages that result from reliance on, or any administrative decision lawfully made under, these regulations.

(G) Permitted Uses	
See section 2.11(J2)	
Residential	
1340	Accessory structure up to 500 sq ft
Working Land and Open Space	
5100	Agriculture
5500	Forestry
5700	Nature preserve

(H) Dimensional Standards. As specified in the underlying district.

(I) District Standards.

(1) Permitted with Administrative Review. The following development activities meeting the Development Standards in the River Corridor in Section 2.11(J5), may be permitted directly by the ZA:

(a) Small accessory structures not larger than 500 square feet;

(b) Improvements to utilities along an existing right of way and serving a building;

(c) Replacement on-site septic systems;

(d) Access and parking;

(e) An attached deck or patio to an existing structure that is 200 square feet or less and is located not less than 100 feet from the top of bank;

(f) Unimproved trails on native grades and soils that will be relocated as needed to accommodate channel adjustments and avoid degradation to bank stability and riparian habitat;

(g) River or floodplain restoration projects that do not involve fill, structures, utilities, or other improvements, and which have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.

(2) Conditional Use Review. Conditional use review and approval by the DRB in accordance with 24 V.S.A. § 4461 is required prior to the issuance of a permit by the ZA for any activity in the River Corridor that is permitted by right or conditionally in the underlying base district and not exempt, prohibited, or eligible for administrative review.

(3) General Standards. The following shall apply to substantial improvements to existing structures and other new development within the RCO:

(a) Improvements to existing structures shall not decrease the distance between the structure and the stream channel as measured horizontally from the top of bank.

(b) Fill is allowed within this district only as required to elevate existing structures above base flood elevation, or as otherwise authorized by state permit in association with stream crossings, channel management activities, or other allowed activities within this district.

(c) New stream crossings by transportation and utility corridors shall be allowed only if the DRB determines that a new crossing is justified because there are no other viable routes or locations for a crossing outside the RCO or within an existing utility or road crossing. Stream crossings shall be located and designed in accordance with state guidelines, and to minimize fluvial erosion and flooding hazards both up- and down-stream from the crossing area.

(d) Bridges and culverts shall be located, designed, sized, and regularly inspected and maintained to minimize erosion as well as flooding hazards.

(e) All utility lines, including water, sewer, power, telephone, and cable lines, shall be buried.

(f) Recreational vehicles stored or parked within the RCO shall be fully licensed and ready for highway use.

(g) In addition to other requirements for conditional uses under these regulations, the DRB, in consultation with the River Management Program, shall find that conditional uses within the RCO shall not:

(i) Have an undue adverse effect on public services and facilities, including roads, bridges, culverts, and emergency services, during and after fluvial erosion events.

(ii) Increase the susceptibility of the property or other properties to fluvial erosion damage.

(iii) Increase the potential for materials to be swept into the stream channel or onto other land and cause damage from fluvial erosion.

(4) Development Standards within the River Corridor. These are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence.

(a) In-Fill: Development must be located no closer to the top of bank than the existing primary structures, within a gap that is no more than 300 feet (see Figure 1), or:

(b) Down River Shadow: An addition to an existing habitable structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system (see Figure 2). Only primary structures existing before this bylaw may be considered for shadowing other development.

(c) River Corridor Performance Standard. Proposals that do not meet the infill or shadowing criteria in section 2.11(J5) a or b must demonstrate, and the DRB must find, that the proposed development will:

(i) Not be placed on land with a history of fluvial erosion damage or threatened by fluvial erosion; and,

(ii) Not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and,

(iii) Not result in a need for bank armoring or stream channelization as a result of the proposed development, that would increase flood elevations and velocities, or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.

Figure 1. In-Fill Development Standard

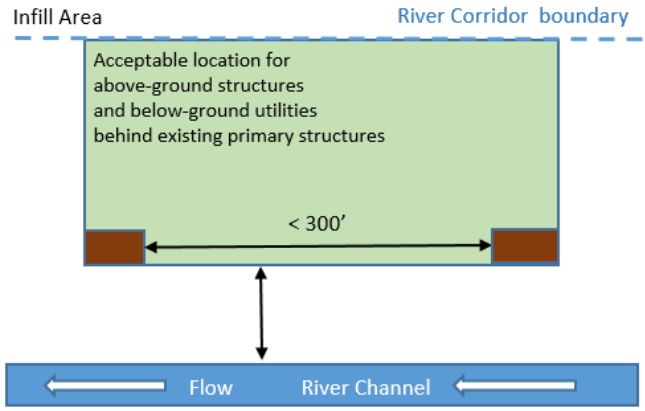
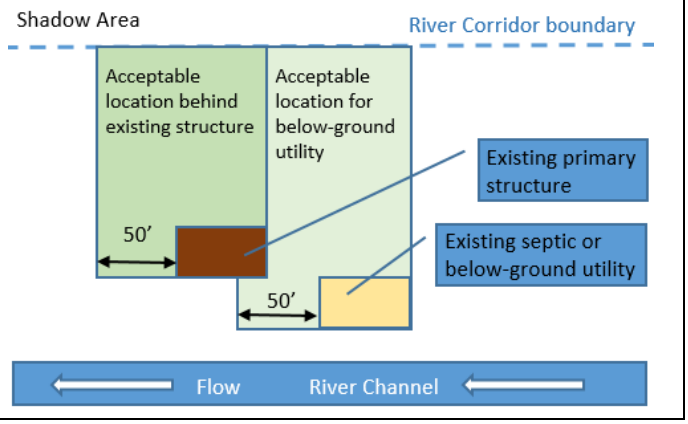


Figure 2. Shadow Area Development Standard



Article 3. General Standards

Section 3.1. Abandonment, Emergency Repair and Demolition of Structures

(A) No zoning permit shall be required for the stabilization of damaged structures to prevent hazards to public health or safety, or to adjoining properties, structures or uses; nor for the timely repair or reconstruction of damaged structures to the extent of their prior condition and use. Any exterior repair or reconstruction not completed within 3 years shall require a zoning permit. Rebuilding that results in changes in density, dimension or use under applicable provisions of these regulations shall require a zoning permit.

(B) The demolition of structures listed on the National or State Registers of Historic Places shall be reviewed as a conditional use subject to the provisions of Article 5 of these regulations.

Section 3.2. Access Management, Driveways and Roads

(A) Pre-Existing Interior Lots. The DRB may allow development on an interior lot in existence prior to the effective date of these regulations that does not have frontage on a state highway or Class I, II, III or IV town road. Access to such a public road shall be provided by means of a permanent easement or right-of-way at least 50 feet wide. In deciding whether to grant, condition or deny approval, the DRB shall consider the intended use of the property, safety, traffic, road and site conditions, the purpose of the district in which the parcel is located and associated policies of the Rupert Town Plan. Lots created after the effective date of these regulations are subject to all applicable provisions of these regulations regarding access and frontage. [See 24 VSA § 4412(3)]

(B) Class IV Town Roads and Legal Trails. As per 19 VSA § 310, the town is not required to maintain designated Class IV town roads or legal trails to provide year-round access to adjoining properties. Upgrade of a Class IV town road or legal trail shall require the approval of the Selectboard. Upgrade and maintenance of a Class IV road or legal trail, as required for development and emergency vehicle access, shall be the responsibility of the applicant and subsequent landowners.

(C) Frontage on Private Roads. Frontage requirements for lots accessed by private roads shall be the same as the requirements for lots accessed by public roads.

(D) Access. Access onto public roads is subject to approval by the Selectboard or, in the case of state highways, approval by the Vermont Agency of Transportation. Access permits shall be obtained prior to the issuance of a zoning permit. In the event approval by the DRB is required for the development, the access permit shall be obtained after DRB approval. In addition, the following provisions shall apply:

(1) With the exception of accesses used solely for agricultural or forestry purposes or where otherwise specified in these regulations, no lot may be served by more than one curb cut. The DRB may waive this provision under Section 7.07 of these regulations and approve additional accesses in the event that:

(a) The additional access is deemed necessary to ensure vehicular and/or public safety;

(b) The strict compliance with this provision would, due to the presence of one or more physical features (i.e., rivers and streams, steep slopes, wetlands), result in a less desirable site layout and design than would be possible with the allowance of an additional access; or

(c) A traffic management plan is developed and implemented that will improve vehicular and pedestrian safety and result in a traffic circulation and parking arrangement within the site that better achieves the purposes of these regulations than would be possible with a single access.

(2) Applicants for a zoning permit for any parcel with more than one access shall eliminate or combine accesses in order to meet the provisions of this section, unless otherwise approved by the DRB.

(3) Subdivision of a parcel after the effective date of these regulations shall not create a right to construct more than one access unless otherwise approved by the DRB. Notwithstanding this provision, the ZA may approve two-lot subdivisions with separate access for each lot in accordance with Section 3.04 and all other applicable provisions of these regulations.

(4) In appropriate instances, including the presence of compatible adjacent uses, areas characterized by heavy traffic, congestion and frequent and/or unsafe turning movements, or parcels having direct access to state highways, the DRB may require provision for shared access between adjoining properties. Requirements for shared access shall be made either at the time of conditional use approval if similar provision has been made on contiguous parcels, or contingent upon future development of neighboring properties.

(5) Where a property occupies a corner of two intersecting roads, access shall be on the less traveled road. This provision may be waived by the DRB only if the applicant can demonstrate that new access on the more heavily traveled road would be safer.

(6) Access shall be limited to a defined width of 40 feet or less as approved by the DRB. In the case of excessively wide pre-existing driveways or uncontrolled access that extends along most of a property's frontage, the DRB shall require the reduction in access width as a condition of approval, unless the applicant can demonstrate that such reduction would place an undue burden on the continued operation of an existing land use.

(7) Existing development that does not meet these standards because of pre-existing site conditions may be required to make improvements necessary to bring the property closer to compliance with the provisions of this section as a condition of approval.

(E) Residential Driveways. New driveways serving not more than 3 dwellings shall meet the following standards:

(1) Residential driveways shall not be more than 24 feet in width. Driveways shall be constructed and maintained with an unobstructed corridor at least 12 feet in width and a minimum vertical clearance of 14 feet. A pull-off area of not less than 12 feet by 50 feet shall be required for every 500 feet of driveway. All curves shall have a minimum outside radius of curvature of 48 feet.

(2) Driveways shall not exceed a 10% slope over any 50-foot section. No driveway shall exceed a slope of 3% within 35 feet of an intersection with the road or shall intersect with a road at an angle of less than 70 degrees.

(3) Driveways shall be set back 5 feet or the minimum required for the district, whichever is less, from side and rear lot lines unless providing shared access to contiguous properties.

(F) Non-Residential Driveways. New driveways serving not more than 3 lots to be developed with non-residential uses shall meet the following standards:

(1) Driveways shall be not less than 18 feet nor more than 30 feet in width. Driveways shall be constructed and maintained with an unobstructed corridor at least 18 feet in width and a minimum vertical clearance of 14 feet. All curves shall have a minimum outside radius of curvature of 48 feet.

(2) Driveways shall not exceed a 10% slope over any 50-foot section. No driveway shall exceed a slope of 3% within 35 feet of an intersection with the road or shall intersect with a road at an angle of less than 80 degrees.

(3) Driveways shall be set back 25 feet or the minimum required for the district, whichever is less, from side and rear lot lines unless providing shared access to contiguous properties.

(G) Private Roads. All other accesses shall be considered private roads. Private roads shall be designed in accordance with any adopted town highway ordinances or public works standards currently in effect or, if no ordinances or standards are in effect, shall conform to the dimensional and geometric design standards specified in the Vermont Agency of Transportation's A-76 Standards for Development Roads, or any successor standards as approved by VTrans, unless otherwise approved by the DRB. Private roads may be taken over by the town only in accordance with town road policies and ordinances, and state statutes governing the laying out of public rights-of-way.

Section 3.3. Adaptive Reuse

(A) The purpose of this section of use is to enable the continued use of historic buildings, other than single-family residences, in the Town of Rupert that have outlived their original function (i.e., barns, silos, schoolhouses, mills) whether or not such buildings conform to the dimensional standards of the district in which they are located. Eligible structures shall be listed, or eligible for listing, on the National or State Register of Historic Places. Eligible structures may be used for any permitted or conditional use allowed in the district, subject to conditional use review under Article 5 and the following provisions:

(1) Adequate infrastructure, utilities and off-street parking capacity exist to accommodate the proposed use; and

(2) Any exterior renovations proposed are compatible with the original architectural design of the structure and conform to guidelines set forth in the most recent edition of The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings [See 36 CFR 67].

Section 3.4. Boundary Adjustments and Two-Lot Subdivisions

(A) Boundary Adjustment. The ZA may approve boundary adjustments that meet all of the criteria below:

(1) Neither lot (nor any structure or use on it) is, or shall become if the proposed adjustment is approved, nonconforming based on the standards of the zoning district(s) in which it is located. Notwithstanding, the ZA may act on a boundary adjustment involving an existing nonconformity if the proposed adjustment will result in the elimination or reduction of the nonconformity.

(2) The boundary adjustment shall not make either lot more developable based on the standards of the zoning district(s) in which it is located (by increasing the acreage or road frontage to allow for further subdivision or the potential for a greater number of lots, for example).

(B) Two-Lot Subdivision. The ZA may approve a two-lot subdivision that meets all of the following:

(1) The lot being subdivided from the parent parcel shall meet all dimensional requirements of the district in which it is located.

(2) The lot being subdivided from the parent parcel shall meet the access requirements set forth in Section 3.02 and shall not require the development of a private road.

(3) The subdivision shall not be under Act 250 jurisdiction.

(4) There have been no lots subdivided from the parent parcel, or any contiguous parcels in common ownership to the parent parcel, during the previous 5-year period.

(C) Submission Requirements. Applicants shall submit a subdivision application and sketch plans for review by the ZA. Sketch plans shall be drawn to scale and include the following:

(1) Existing and proposed lot lines;

(2) Zoning district boundaries;

(3) Existing and proposed roads/drives and associated rights-of-way; and

(4) Existing building footprints and development envelopes.

(D) Survey Required. A survey, stamped by a surveyor registered in Vermont, shall be completed. If any lot involved is 5 acres or greater in area, the applicant shall not be required to survey it in its entirety and may survey only those portions necessary to establish any new boundaries, unless the ZA requires a full boundary survey to determine whether the creation of a new lot complies with the district's density requirements.

(E) State Permits Required. The ZA shall condition approval upon the applicants filing copies of the state Potable Water and Wastewater permits for each lot or a written determination from the Agency of Natural Resources exempting the boundary adjustment from the requirements of the state regulations. [See Chapter 1 of the Environmental Protection Rules § 1-403(12)]

(F) Filing Required. Within 180 days of approval by the ZA, applicants shall file a final plat for recording in the town land records as required in Section 7.09(F) of these regulations. Failure to file within 180 days voids approval of the plat. Applicants shall also file new deed descriptions that eliminate any reference to the old boundary and correctly describe the new configuration or attach revised descriptions that shall be incorporated into the deeds at the time of conveyance.

(G) Special Requirements for Density-Based Districts. The following shall apply to any two-lot subdivision involving land in the Rural Residential, Agricultural or Resource Management Districts:

(1) The applicant shall provide documentation of allocated or maximum allowable density as established by a previous subdivision after the effective date of these regulations, or per district standards for lots not subdivided since the effective date of these regulations.

(2) The applicant shall provide an allocation of allowable density between the parent and subdivided parcel, which shall be shown on the filed plat and on the permit issued by the ZA.

(3) The applicant shall file a notice, to be provided by the ZA, for recording in the town land records documenting the density remaining with the parent parcel.

Section 3.5. Conversion or Change of Use

(A) The conversion or change in use of land or 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, as well as any other applicable municipal, state or federal regulations currently in effect.

(2) A conversion or change of use from one permitted use to another permitted use, or from a conditional use to a permitted use, requires a zoning permit issued by the ZA under Section 7.05 of these regulations.

(3) A conversion or change of use from a permitted to a conditional use, or from a conditional use to another conditional use, requires conditional use approval from the DRB subject to the provisions of Article 5.

Section 3.6. Equal Treatment of Housing

(A) No provision of these regulations shall have the effect of excluding housing from the town that meets the needs of the population as set forth in the Rupert Town Plan. [See 24 VSA § 4412(1)]

Section 3.7. Fences

(A) No part of any fence shall be placed in such manner as to visually obstruct vehicular or pedestrian traffic. The placement of fences near the corner of a property at the intersection of two roads shall provide for a clear vision area defined as a triangular area formed by the right-of-way lines at points which are 20 feet distant from the intersection of the right-of-way lines and measured along such lines.

(B) Setback requirements shall not apply to fences.

Section 3.8. Height Requirements

(A) Except for the following structures, which are specifically exempt from the height provisions of these regulations, no structure shall exceed district height requirements unless such structure meets the standards set forth in Paragraphs C and D, below.

(1) Agricultural structures, including barns and silos; [See 24 VSA § 4413(D)]

(2) Church steeples, spires and belfries; and

(3) Structures attached to or mounted on a building, such as antennas, satellite dishes less than 1 meter in diameter, chimneys, and weathervanes, which are less than 50 feet in height from the lowest finished grade at ground level to the highest point of the structure.

(B) Maximum building height shall be measured in stories as established in Article 2. No story shall exceed a height of 10 feet unless otherwise approved by the DRB. For all other structures, maximum height shall not exceed 35 feet as measured from the lowest finished grade at ground level at the base of the structure to the highest point of the structure unless otherwise specified in these regulations.

(C) The DRB may waive the height restrictions in accordance with Section 7.07 and approve a building height in excess of the standards for the district in which it is located:

(1) For structures associated with an industrial, communication or utility use in which the additional height is necessary to reasonable operation or function.

(2) For structures associated with the production of renewable energy that are less than 100 feet in height from the lowest finished grade at ground level to the highest point of the structure.

(3) For a vertical architectural element that does not exceed 10% of the building's total footprint.

(D) In approving building heights in excess of the district standards, the DRB shall find that:

(1) The proposed structure does not constitute a hazard to public safety, or to adjoining properties;

(2) The front, side and rear yard setbacks are sufficient to protect adjoining properties and rights-of-way in the event of structural collapse; and

(3) The structure will not be used for advertising purposes.

Section 3.9. Landscaping and Screening

(A) Applicability. The DRB may require landscaping and screening as deemed necessary to achieve the purposes of these regulations as a condition of conditional use, site plan, subdivision or PUD approval.

(B) Landscaping.

(1) Landscaping shall be designed to achieve the purposes of this section, strengthen the features and conditions unique to each site, and should include a combination of shade trees, shrubs and ground covers.

(2) Reasonable effort shall be made to save existing healthy, mature trees, especially those along property lines and roadways. During construction, no material or temporary soil deposits shall be placed within the drip line of trees or shrubs to be retained.

(3) Shade trees shall 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. A mix of evergreen and flowering shrubs and bushes should be used adjacent to buildings, within planting beds and to complement shade trees and other landscaping features. Landscaping plans should emphasize species that are native to Vermont.

(4) The DRB may require a maintenance plan for all proposed landscaping and may require replacement of dead and dying plants and trees as a condition of approval.

(C) Screening.

(1) Development shall provide sufficient screening. When the DRB determines that topographical or other barriers do not provide adequate screening, it may require additional landscaping, berms, and/or walls and fences be installed. Screening should be considered especially in the following cases:

(a) Where more intensive land uses are proposed to abut less intensive uses.

(b) Adjacent to garbage collection and utility areas, satellite antennas, outdoor storage, and loading and unloading areas and other outdoor utilities and service areas.

(c) When the project adversely impacts adjacent properties (i.e., lighting, outdoor storage, etc.), or when contiguous land uses and activities will adversely impact on the development (i.e., roads or incompatible uses).

(2) Any required screening should provide a year-round visual screen, particularly from 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, walls, shade trees, evergreen and flowering shrubs, rocks, earthen mounds or combinations of materials to achieve the same objectives.

Section 3.10. Lots, Setbacks and Yards

(A) Principal Buildings. A landowner may locate more than one principal building on a lot in accordance with the standards below:

(1) The total amount of development on the lot must not exceed the maximum lot coverage allowed in the applicable zoning district;

(2) Each principal building must meet the dimensional standards of the applicable zoning district;

(3) The distance between new principal buildings or between a new principal building and an existing principal building must not be less than twice the side setback required in the applicable zoning district;

(4) There must not be more than two buildings wholly or partially used as a dwelling unit (inclusive of accessory dwellings) on any lot unless approved as part of a planned unit development; and

(5) Approval of multiple principal buildings on a lot will not constitute a right to convey them separately unless:

(a) The subject lot will be lawfully subdivided in accordance with the provisions of these regulations; or

(b) The building will be lawfully converted to condominium ownership, which may include the subdivision of footprint lots.

(B) No lot shall be so reduced in area that it cannot conform to area, yard, setback, frontage, coverage and other dimensional standards set forth in these regulations, except as approved by the DRB as part of a PUD.

(C) Space required under these regulations to satisfy area, yard, or other open space requirements in relation to one building shall not be counted as part of a required open space for any other principal building.

(D) An interior lot shall meet minimum setbacks from all property lines equal to the greatest setback distance for the district in which it is located.

(E) Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front and side yards.

(F) Above grade projections from a building such as roof overhangs, balconies, sills, cornices or similar architectural features may be permitted to extend up to 30 inches into required yards, except that no projection shall extend over a public or private right-of-way unless otherwise approved by the DRB.

Section 3.11. Nonconformities

(A) Purpose. Any lot, structure, part of a structure or use that does not comply with the provisions of these regulations shall be deemed a nonconformity. Nonconformities shall be regulated and only allowed to continue indefinitely as outlined below. [See 24 VSA § 4412(7)]

(B) A nonconforming lot:

(1) Merger of nonconforming lots. A nonconforming lot within the Village Center, Village Residential or Village Neighborhood Districts shall not be deemed merged if it comes into common ownership with one or more contiguous lots. In all other districts, a nonconforming lot shall be deemed merged if it comes into common ownership with one or more contiguous lots, except that such a lot shall not be deemed merged and may be separately conveyed in its pre-existing configuration if it meets all of the following: [See 24 VSA § 4412(2)(B)]

(a) The nonconforming lot was developed with a water supply and wastewater disposal system as of the effective date of these regulations;

(b) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and

(c) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 VSA Chapter 64.

(2) Development of a nonconforming lot. An undeveloped nonconforming lot may be developed in accordance with the standards of the district in which it is located if the lot: [See 24 VSA § 4412(2)(A)]

(a) Was legally subdivided;

(b) Was in existence on or before the effective date of these regulations;

(c) Is at least 1/8 acre in area; and

(d) Is at least 40 feet wide and deep.

(3) Use of a developed nonconforming lot. A lawfully developed nonconforming lot:

(a) May continue in its current use and configuration.

(b) May, after receiving all applicable approvals and permits, be further developed and used in accordance with the standards of the district in which it is located.

(C) A nonconforming structure:

(1) May undergo normal repair and maintenance without a permit provided that such action does not increase the structure's degree of nonconformity.

(2) May be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of nonconformity that existed prior to the damage, and provided that a permit is obtained within 1 year of the date the damage occurred.

(3) May be structurally enlarged, expanded or moved, after receiving a permit from the Zoning Administrator, provided that the degree of nonconformity is not increased.

(4) May, subject to conditional use approval by the DRB in accordance with the provisions of Article 5, be structurally altered or expanded in a manner that would increase the degree of nonconformity for the sole purpose of meeting mandated state or federal environmental, health, accessibility, safety or energy regulations that would allow for the continued use of the structure.

(D) A nonconforming use:

(1) Shall not be moved from one lot to another where it is also a nonconforming use.

(2) Shall not be re-established if the use has been changed to or replaced by a conforming use for a period greater than 3 years.

(3) Shall not be re-established if the use has been discontinued for a period greater than 3 years.

(4) Shall not be intensified by any means whatsoever, except with the approval of the DRB subject to conditional use approval in accordance with the provisions of Article 5.

(5) Shall not be extended to displace a conforming use.

Section 3.12. Outdoor Lighting

(A) Purpose. The town's rural character is enhanced by the ability to clearly view and enjoy the night sky largely free from light pollution. While some outdoor lighting may be necessary for safety and security, inappropriate, poorly designed, or improperly installed outdoor lighting can create unsafe conditions and nuisances for adjoining property owners, cause sky glow that obstructs views of the night sky, and result in unnecessary energy consumption.

(B) General Standards. To allow for appropriate outdoor lighting, the following standards shall apply to all outdoor lighting installations with the exception of temporary holiday light displays, flagpole lights and street lighting, which are exempt from these requirements.

(1) All outdoor lighting shall be kept to the minimum required for safety, security and intended use.

(2) Outdoor lighting shall not have undue adverse impacts on the character of the area in which it is located.

(3) Permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, public roads or public waters.

(4) Outdoor lighting fixtures shall be cast downward and be designed to minimize glare. Such fixtures may include recessed, shielded or cutoff fixtures, or low luminance lamps.

(5) Outdoor lighting fixtures associated with nonresidential uses, except for approved security lighting, shall be illuminated only during business hours.

(6) Outdoor lighting fixtures should include timers, dimmers or sensors whenever feasible to reduce energy consumption and eliminate unnecessary lighting.

(7) Installation of streetlights in rural areas is strongly discouraged.

(C) Waiver. The DRB may waive or modify the requirements of this section, in accordance with Section 7.07, if it finds that doing so shall not violate the stated purpose of this section; or it finds that a waiver or modification is needed to protect public safety, or to meet an overriding public purpose such lighting a public building or monument.

Section 3.13. Parking, Loading and Service Areas

(A) Parking. For every structure or use erected, established, altered, extended or changed, associated off-street parking spaces shall be provided on the same lot, or on adjacent lots under the same ownership or under permanent easement, as set forth below:

(1) Spaces Required. A minimum number of parking spaces as determined by the proposed use shall be provided in accordance with the requirements listed in Table 3-A. It is the purpose of this section to limit the amount of surface parking to the minimum necessary to accommodate proposed development. To that end, the DRB may waive or modify parking requirements based on the specific use, predicted parking needs, public and shared parking availability, and other relevant factors.

(2) Dimensional Requirements. All required parking spaces shall have a minimum width of 9 feet, a minimum length of 18 feet, unobstructed access and maneuvering room, and a gravel or paved surface sufficient to permit year-round use unless otherwise approved by the DRB.

(3) Access. Each space shall be provided with access to the street through a drive or aisle not less than 10 feet in width for one-way and 20 feet in width for two-way traffic. Parking areas shall be laid out so as not to require or permit vehicles to back onto the street.

(4) Location on Parcel. Non-residential parking areas shall be located behind the building frontline, unless otherwise approved by the DRB.

(5) Accessibility Requirements. In addition to the requirements listed in Table 3-A, all multi-family, public, commercial and industrial developments shall provide adequate, clearly marked handicapped parking spaces in accordance with state and federal (ADA) requirements.

(6) On-Street and Public Parking. Where a parcel fronts upon a public or private road on which on-street parking is allowed, the on-site parking requirements for that parcel may be reduced from the requirements set forth in Table 3-A by one space for every 20 linear feet of frontage where parking is permitted (excluding frontage used for driveway accesses, pedestrian cross walks, and/or service areas) or each clearly marked space along such frontage.

(7) Low-Impact Development. Applicants are encouraged to design parking lots in accordance with low- impact development techniques to allow for filtration and infiltration of stormwater. The DRB may waive or modify parking lot design and landscaping requirements to accommodate such practices.

(8) The DRB may require shared parking and/or landscaping, screening, lighting, snow removal, pedestrian or transit facilities as a condition of approval.

(B) Loading and Service Areas. Development that will require the frequent or regular loading or unloading of goods or passengers shall provide sufficient on-site service areas in accordance with the following:

(1) All loading and service areas shall be clearly marked and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections or from any internal road or access.

(2) Except for passenger pick-up or drop-off areas, loading and service areas shall be located behind the building frontline or to the side or rear of the structure they are serving.

(3) All vehicle movements for loading, unloading, and deliveries shall be made off the street right-of-way.

(4) Service areas may also be required for emergency vehicles, waste disposal and collection, transit service, or other purposes as necessitated by the proposed use.

Table 3-A: Minimum Parking Space Requirements		
Residential		
1.5	spaces per dwelling unit	Single- & two-family dwelling
1.5	spaces per dwelling unit	Multi-family dwelling
1	space per dwelling unit	Accessory & elderly dwelling, 1-bedroom unit
0.5	spaces per bed + per employee	Group housing
Public and Civic		
0.3	spaces per seat	Place of assembly with fixed seating
0.3	spaces per max capacity	Place of assembly without fixed seating
0.1	spaces per acre	Outdoor place of assembly
0.1	spaces per student + per employee	Educational facility
1	Space per employee	Healthcare & daycare facilities
Commercial		
0.3	spaces per stall	Stable
0.1	spaces per animal capacity	Kennel
0.3	spaces per seat	Eating and drinking establishment
1.5	spaces per employee	Financial services facility
0.1	spaces per max capacity	Retail store
1	space per repair bay + per employee	Vehicle/equipment repair/service
1.5	spaces per employee	Vehicle/equipment sales (excludes display area)
1	spaces per employee	Office, personal service
0.8	spaces per rooms + per employee	Lodging
Industrial		
1	space per employee	Industrial use (excludes vehicles stored on-site)
Working Land and Open Space		
1	space per employee	Extraction (excludes vehicles stored on-site)
1	space per employee	Nursery (excludes vehicles stored on-site)
1.5	spaces per seller	Farmers' market
Notes: Number of employees shall be calculated based on the largest shift. The DRB shall establish the required number of parking spaces for any use not specifically listed in this table.		

Section 3.14. Performance Standards

(A) Land development shall not adversely affect the use of the surrounding area by the emission of dangerous and objectionable elements such as noise, vibration, smoke, dust, odor; the generation of any other form of air pollution, heat, cold, dampness, electromagnetic or other disturbance, glare, liquid or solid refuse or wastes; or the creation of noxious, fire, explosive or other hazard. [See 24 VSA § 4414(5)]

(B) In determining whether the provisions of this section have been violated, the DRB and ZA shall consider whether the activity in question prevents the reasonable use and enjoyment of nearby property or adversely impacts the character of the area as described in the applicable section(s) of Article 2 of these regulations and the Rupert Town Plan.

Section 3.15. Riparian Buffers

(A) Applicability. The DRB shall establish riparian buffers as specified in this section as a condition of conditional use, subdivision or PUD approval.

(B) Buffer Establishment. To prevent soil erosion, protect wildlife habitat and maintain water quality, riparian buffers shall be maintained for a minimum of 25 feet from all Class 3 wetlands and intermittent or unmapped streams, and for a minimum of 50 feet from all Class 2 wetlands and USGS mapped streams. Buffer distances shall be measured from the stream centerline or delineated wetland boundary. Any areas within a riparian buffer that are not vegetated or that are disturbed during construction shall be seeded or planted with a naturalized mix of grasses and/or native woody vegetation. The DRB, as a condition of site plan or subdivision approval, may require the establishment of larger buffers if deemed necessary to achieve the purposes of this section.

(C) Development Prohibited. No development, excavation, fill or grading shall occur within the buffer strip, and vegetation shall be left in an undisturbed state, with the exception of minimum clearing and associated site development necessary to accommodate the following:

(1) Road, driveway and utility crossings.

(2) Streambank stabilization and restoration projects, in accordance with all applicable state and federal regulations.

(3) Drainageways.

(4) Approved recreation and outdoor living areas.

(D) Buffer Maintenance. The creation of new lawn areas within riparian buffers is strongly discouraged. Property owners are encouraged to retain or allow the growth of woody vegetation within riparian buffers. Property owners already encroaching on the riparian buffer are encouraged to return mowed areas to their naturally vegetated state. Supplemental planting with appropriate native vegetation to restore and enhance the effective filtering and bank stabilization functions of a riparian buffer is encouraged. Removal of dead trees or trees of immediate threat to human safety as well as reasonable pruning of existing trees shall be permitted. The DRB may place conditions on the amount of or location where woody vegetation may be cleared within a riparian buffer as deemed necessary to protect water quality, prevent soil erosion, and preserve wildlife and/or fisheries habitat.

Section 3.16. Signs

(A) Purpose. The purpose of these standards is to provide a coordinated, uniform and consistent approach for the review of signs proposed to be erected or maintained in the Town of Rupert, taking into consideration the historic, cultural, scenic, aesthetic and natural resources sought to be protected by these regulations. These standards are intended to:

(1) Prevent sign or advertising distractions and obstructions that may contribute to traffic accidents;

(2) Enhance and protect the town's physical appearance, community character and natural beauty in order to provide a more enjoyable and pleasing environment for residents and visitors;

(3) Protect property values by creating a more attractive business and tourism climate; and

(4) Encourage use of well-designed signs that clearly present visual messages in a manner compatible with their surroundings.

(B) Applicability. A zoning permit shall be required before the erection, construction, modification or replacement of any sign, except for signs that are specifically exempted as per Paragraph (C) of this section.

(C) Exemptions. No zoning permit shall be required for the following signs.

(1) Signs erected by state or town officials.

(2) Flags.

(3) Temporary election signs to be posted and removed in accordance with state law.

(4) Bulletin boards incidental to places of worship, schools, libraries or similar public facilities.

(5) Temporary signs or banners advertising non-commercial public events, which shall be removed immediately following the event.

(6) Temporary auction lawn or garage sale signs, which shall be removed immediately following the event.

(7) A temporary real estate sign not to exceed 6 square feet, which shall be removed immediately following sale.

(8) One sign not to exceed 6 square feet advertising the architect, engineer or contractor working or responsible for a project on the premises upon which the sign is located.

(9) One unlit sign not to exceed 8 square feet advertising a home occupation.

(10) Signs, not to exceed 2 square feet in area, relating to no trespassing or hunting, identifying the residents of a dwelling, providing directions or information, or other similar non-advertising purpose.

(11) Historic markers, memorial signs or plaques, or names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material.

(12) One temporary sign, 10 square feet or less in area, placed on the premises of a business for the purpose of advertising sales or specials in accordance with the location and design requirements of this section for a period of not more than 14 consecutive days nor more than a total of 56 days in any calendar year.

(13) One portable sign not to exceed 6 square feet to be placed out only when the business is open.

(14) Signs not to exceed 1 square foot in area placed on the interior side of a window or glass door.

(D) Number of Signs. Not more than 1 sign may be erected or maintained advertising or otherwise relating to a single business or activity, not including signs exempt under Paragraph C, unless otherwise specified in these regulations.

(E) Size. No sign shall be erected or maintained having a sign area greater than 16 square feet.

(F) Height. No freestanding sign shall exceed 10 feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the structure.

(G) Design. No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights. All luminous signs indirectly illuminated signs and lighting devices shall employ only lights emitting white light of constant intensity. No sign, or part of a sign, shall rotate or move back and forth. No sign, or part of a sign, shall contain or consist of any banner, pennant, ribbon, streamer, spinner, balloon or other similar moving, fluttering or revolving device.

(H) Setbacks. Front yard setback requirements shall not apply to signs, except that no sign shall be erected or maintained within the right-of-way of a public or private road.

(I) Removal. Any sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed.

(J) Hazards. No sign shall be designed or located to impair public safety, traffic flow or roadway visibility.

(K) Computation of Sign Area. When computing the total permissible sign area for any use:

(1) Signs consisting of freestanding letters, numerals or other devices shall include any intervening spaces between them.

(2) Only the larger faced area of a double-faced sign shall be used.

(L) Application Requirements. All applicants shall submit a drawing of the proposed sign showing all dimensions, sign design, color, lighting (including fixture type and intensity), mounting method and location on property, and a description including dimensions, of all existing signs on the property.

Section 3.17. Steep Slopes, Erosion Control and Stormwater Management

(A) Measurement of Slope. For the purposes of these regulations, slope shall be measured as the average over a horizontal distance of 50 feet.

(B) Development Conditional. All development involving the excavation, filling and/or regrading of land characterized by a slope of 15% or greater shall require conditional use approval by the DRB subject to the provisions of Article 5. DRB approval shall be contingent upon the submission of an adequate erosion and sedimentation control plan. The DRB may waive compliance with this provision in situations involving minimal disturbance of the site and/or limited areas of steep slope in which the development clearly poses a negligible risk to water quality, public facilities and roads, and nearby properties.

(C) Development Prohibited. Development shall be prohibited on land characterized by a slope of 30% or greater. Limited site improvements necessary to facilitate development on contiguous land with a slope of less than 30% slope may be allowed by the DRB.

(D) General Requirements.

(1) The DRB may require the preparation and implementation of stormwater management and/or sedimentation and erosion control plans and associated analyses to ensure that site improvements, including excavation, road and driveway construction and site clearing and grading, shall not unduly impact neighboring properties or surface waters. Such plans, if required, shall be prepared by a qualified professional, and include provisions for the inspection and long-term maintenance of stormwater management and erosion control facilities.

(2) The DRB may require such temporary and permanent stormwater management and erosion control measures as may be necessary to control surface runoff, sedimentation and water pollution on-site and downstream from the proposed development. Factors to be considered in determining the types of controls necessary shall include pre-development site and runoff conditions, vegetation and ground cover, slope and drainage patterns, soil types (i.e., hydric soils), the percentage of land covered in impervious surfaces, types of pollutants generated, distances to streams and other surface waters, and impact on adjoining properties.

(3) The DRB may require the designation of on-site snow storage areas as part of subdivision and/or site design. These areas shall not be located within wetland or riparian buffer areas and shall be contained in such a manner that runoff is managed through a detention or infiltration facility or other best management practice that removes pollutants.

Section 3.18. Swimming Pools and Ponds

(A) Swimming Pools. The installation of a swimming pool may be permitted as an accessory use upon application and receipt of a zoning permit in accordance with Section 7.05 of these regulations.

(1) No pool shall be constructed over a leach field or within 25 feet of a well or other underground water source.

(B) Ponds. The creation of ponds and other impoundments with a capacity of not more than 40,000 cubic feet of water may be permitted as an accessory use by the ZA upon application and receipt of a zoning permit in accordance with Section 7.05 of these regulations. The creation of ponds and other impoundments with a capacity greater than 40,000 cubic feet of water may be approved by the PC as a conditional use.

(1) Ponds and their supporting structures shall be located in accordance with the following setbacks:

(a) Ponds shall abide by the greater of district setback requirements or 15 feet from any property line.

(b) 50 feet from all leach fields and 25 feet from all septic tanks, including those on adjacent properties.

(c) 25 feet from all drilled wells, including those on adjacent properties.

(2) Ponds and their supporting structures shall not be located within any right-of-way or easement.

(3) An applicant for any pond that will impound or be capable of impounding 500,000 cubic feet of water or more, involve any alteration of a natural stream or water body, or is otherwise subject to state permitting requirements shall submit copies of all required state permits with the zoning permit application.

(4) An applicant for any pond involving the impoundment of water through the creation of an embankment, berm or other structure that exceeds the natural grade of the site, and with a surface area of greater than 10,000 square feet of area or greater shall submit certification that the pond was designed by a qualified professional.

(5) An applicant for any pond shall include the following additional information with the zoning permit application:

(a) Sketch of the pond location showing:

(i) Setbacks from property lines, leach fields, structures, and water supplies;

(ii) Existing slope of the pond site;

(iii) Water source and method of discharge;

(iv) Location and size of emergency spillway; and

(v) Route of flow of outlet and/or spillway.

(b) Cross section depiction of the pond, to include dam or other retention structure.

(c) Approximate volume of water to be contained.

(d) Description of vegetative cover planned to prevent erosion.

Section 3.19. Temporary Structures and Special Events

(A) Construction-Related. The ZA may issue temporary permits for non-conforming structures or uses, excluding dwellings, incidental to construction projects for a period not exceeding 1 year provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding 1 year.

(B) Other Temporary Structures. The ZA may issue temporary permits for non-conforming structures, excluding dwellings, associated with a special event for a period not exceeding 30 days.

(C) Portable Structures. Portable lightweight structures, carports, storage sheds, storage units, storage containers, pole barns and similar structures shall be deemed the same as any other structure and subject to all applicable provisions of these regulations.

(D) Campers and Temporary Dwellings. A camper (including recreational vehicle and travel trailer), boat with living quarters, or other temporary dwelling (i.e., tent, tepee or yurt) shall be parked, stored or located on public or private property in accordance with the following requirements:

(1) The provisions of this paragraph shall not apply to campers or other temporary structures located in an approved campground, repair garage, sales establishment, or, in accordance with Paragraph (A) of this section, on construction sites for use as a temporary structure.

(2) No more than 2 campers or other temporary structures shall be stored on a residential or undeveloped lot.

(3) Campers and other temporary shelters shall be located or stored outside required district setback areas and behind the front line of the principal building on the lot.

(4) Campers, boats and other temporary dwellings shall not be inhabited for more than 150 days during a calendar year.

(5) Any camper, boat or temporary shelter that is inhabited for more than 150 days in a calendar year or that is located so as to not be readily moveable shall be deemed a dwelling and be subject to all provisions of these regulations applicable to single-family dwellings.

(6) Any wastewater or sewage generated from a camper, boat or other temporary dwelling shall be disposed of in accordance with all applicable state and federal regulations.

Section 3.20. Utility Infrastructure

(A) Location. All utilities systems, existing and proposed, shall be shown on the site plan or final plat, and shall be located as follows:

(1) All utility systems, which may include but not be limited to electric, gas, telephone, fiber optics, and television cable, shall be located underground throughout the subdivision or project site. The DRB may waive this provision, as per Section 7.07, if burying the lines is deemed unreasonable and prohibitively expensive (i.e., burial would require extensive blasting and ledge removal for most of length of the utility extension).

(2) The applicant shall coordinate subdivision or site design with the utility companies to ensure adequate and suitable areas for under or above ground installation, both for the proposed development, and areas adjacent to the development.

(3) Utility corridors shall be shared with other utility and/or transportation corridors where feasible and be located to minimize site disturbance and any adverse impacts to natural, cultural or scenic resources, and to public health.

(B) Utility Boxes. All utility boxes shall be located so as to be easily accessible for maintenance while being screened from public view to the greatest extent feasible.

Article 4. Specific Use Standards

Section 4.1. Accessory Dwelling Unit

(A) Accessory Dwelling Unit (ADU). A dwelling unit that meets the standards below shall be an accessory use to a single-family dwelling in all districts where single-family dwellings are an allowed use or in any single-family dwelling in existence as of the effective date of these regulations.

(1) The unit shall be an efficiency or one-bedroom apartment or dwelling with provisions for independent living including sleeping, food preparation, and sanitation;

(2) The owner shall reside on the property in either the primary or accessory dwelling unit;

(3) The area of the unit shall not exceed the greater of 30% of the total habitable floor area of the principal dwelling or 900 square feet;

(4) The unit shall be within the principal dwelling or in an accessory building to that dwelling that meets all the applicable standards for the district in which it is located;

(5) Off-street parking for 1 vehicle shall be provided in accordance with the standards in Section 3.13 of these regulations; and

(6) A copy of the state Potable Water and Wastewater permit for the accessory apartment shall be filed with the town before the unit may be occupied.

(B) Farm Worker Housing. One or more accessory dwellings or bunkhouses may be allowed as farm worker housing in specified districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) The dwelling or bunkhouse shall be an accessory structure or unit to house employees working on the farm and their families.

(2) Approval shall be granted only on condition that if the parcel is no longer devoted primarily to farming, the accessory dwelling or bunkhouse shall be either:

(a) Unoccupied;

(b) Removed;

(c) Converted to an allowed non-residential use that meets all the applicable standards for the district in which it is located;

(d) Converted to an accessory dwelling in accordance with Paragraphs (A) or (B) above; or

(e) Located on a legal lot through a subdivision of land or relocation of the structure.

(C) Maximum Density.. Accessory apartments and farm worker housing permitted and used in accordance with the provisions of these regulations, shall not be counted as dwelling units for the purposes of calculating the maximum density of lots. Accessory apartments and farm worker housing may only be converted, subdivided and/or sold for use as principal dwelling units in accordance with all district standards, including maximum density.

Section 4.2. Childcare Facilities

(A) Childcare Home. A childcare home that meets all of the following standards shall be permitted as an accessory use to a single-family dwelling within all districts where single-family dwellings are an allowed use or in any single-family dwelling in existence as of the effective date of these regulations. [See 24 VSA § 4412(5)]

(1) A resident of the dwelling in which the use is occurring operates the childcare home.

(2) The childcare home shall be operated under state licensing or registration.

(3) The childcare home serves 6 or fewer full-time children and 4 or fewer part-time children.

(4) One unlit exterior sign shall be permitted in accordance with Section 3.16.

(5) The childcare activities shall occur primarily within the single-family dwelling. This shall not be interpreted to prohibit use of other parts of the home or property such as porches, decks or yards for children's play areas as is customary in residential neighborhoods.

(B) Daycare Facility. Daycare facilities, operated under state licensing or registration, may be allowed in designated zoning districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5.

Section 4.3. Construction-Related Facility

(A) Construction-related facilities may be allowed in designated zoning districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) Outdoor Storage and Screening. No materials, equipment, vehicles or parts shall be stored within required setbacks. The business shall be visually compatible with neighboring uses. Landscaping and screening may be required as appropriate.

Section 4.4. Extraction

(A) Purpose. It is the purpose of this section to:

(1) Provide reasonable opportunities for the extraction of earth resources;

(2) Prevent the pollution of air, streams, ponds and lakes, assure the adequacy of drainage facilities, safeguard the water tables, and to encourage the wise use and management of natural resources throughout the town;

(3) Protect against hazards, fire, explosives, offensive noise, damaging vibration, excessive dust and other particulate matter, and other dangerous, toxic, noxious or objectionable influences;

(4) Maintain the condition, character, safety and function of town roads and associated infrastructure; and

(5) Protect the value of residential property and preserve the town's quality of life.

(B) Applicability. No earth resources, including loam, sand, gravel, clay, peat, quarry stone, or other inorganic matter, shall be extracted, excavated, removed, filled or dumped except in conformance with the provisions of this section. Extraction of earth resources may be permitted in specified districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following.

(1) Exemptions. The following are exempt from the requirements of this section:

(a) Necessary filling, excavation, grading or removal incidental to the permitted subdivision of land, or construction or alteration of a structure, road or drive, parking lot, septic system or other infrastructure.

(b) Necessary filling, excavation, grading or removal incidental to private road, driveway or parking area repair or maintenance.

(c) Non-commercial extraction by a landowner for agricultural or forestry use on their own property in accordance with required agricultural and forestry practices.

(d) The movement of not more than 600 cubic yards of material per calendar year within, from or to a lot.

(C) Standards and Criteria. In addition to the development review standards listed in Article 5, excavation operations shall comply with and be reviewed in accordance with the following:

(1) Minimum Lot Size. Extraction shall be prohibited on lots less than 5 acres in size.

(2) Phasing. Extraction shall be phased with not more than 10 acres being opened at one time. Upon receiving conditional use approval from the DRB, the ZA shall issue a zoning permit for one phase at a time. When a phase is complete, the area shall be reclaimed in accordance with the approved reclamation plan. After a site inspection and upon satisfactory reclamation, the ZA shall issue a zoning permit for the next phase.

(3) Setbacks and Buffers.

(a) Buffer from Property Lines. No development, including internal access roads, shall be permitted within 100 feet from all property lines. Existing vegetation shall be retained except where clearing is necessary for ingress/egress. Where existing vegetation is inadequate to provide year-round visual screening of the operation from the public road and nearby residences, the DRB may require screening be installed.

(b) Setback from Property Lines. No excavation shall occur, nor processing equipment be located, within 200 feet from all property lines.

(c) Setback from Residences. No processing equipment shall be located within 500 feet of a residence in existence as of the date of application.

(d) Additional Buffer and Setback Requirements. The DRB may establish additional or greater setbacks or buffers to address the unique characteristics of each site as it deems necessary to achieve the purposes of this section including the protection of natural resources and preservation of quality of life for adjoining residents.

(4) Overburden Removed and Stockpiled. A minimum of the top 6 inches of material removed shall be stored for use in site reclamation. Stockpiled material shall be located and managed to prevent dust, erosion and sedimentation of drainage ways and streams.

(5) Temporary Slopes and Stockpiles. No temporary slopes shall be created by excavation or stockpiling in excess of 1:1 (rise:run) for granular soils, 4:1 for rock, or 1:3 for clay. Stockpiles shall not be created in excess of 50 feet in height.

(6) Fencing. The DRB may require fencing when it is deemed necessary to protect public safety. At a minimum, perimeter fencing shall be required for excavations exceeding a depth of 15 feet or slopes of 1:2. Such fences shall be no less than 6 feet in height and shall be located no less than 15 feet from the edge of the excavated area.

(7) Protection of Groundwater Supplies. The extraction of earth resources shall not result in any groundwater contamination or diminishment of the drinking water supply of residences in existence as of the date of application. The DRB may require use of monitoring wells and/or regular water quality testing when deemed necessary to achieve the purposes of this section.

(8) Dust and Emissions. The applicant shall be required to take all reasonable measures to limit the amount of dust and other air quality contaminants generated from the extraction, processing and transport of earth materials.

(a) Soil to be stored in undisturbed stockpiles for longer than 1 calendar year shall be seeded and maintained as necessary to establish a vegetative cover adequate to prevent erosion.

(b) Water, calcium chloride or similar agent shall be applied as necessary to the haul roads, traffic areas and non-vegetated storage piles to prevent fugitive dust and the tracking of dirt onto public roads.

(c) All trucks entering, exiting or operating at the site that are loaded with materials that may generate fugitive dust shall be covered.

(9) Reclamation. Upon completion of the extraction authorized, the area of excavation or otherwise disturbed ground shall be reclaimed so that the land will be left in a safe, attractive and readily usable condition for the types of land uses allowed in the district and in accordance with the following:

(a) The area shall be evenly graded to slopes not exceeding 1:3. The DRB may modify this requirement based on specific site conditions (i.e.. allow steer slopes due to presence of ledge rock or require gentler slopes to ensure slope stability based on soil characteristics) or to ensure the land will be suitable for reasonable future use.

(b) The natural drainage patterns of the site shall be restored with surface water draining off-site in similar locations and at similar rates to pre-extraction.

(c) All stockpiled materials, debris and loose boulders not incorporated into the improvement of the site shall be buried or removed from the property.

(d) A top layer of arable soil, which shall be free of any large stones, shall be spread to a depth of not less than 6 inches over the entire area.

(e) At a minimum, the disturbed area shall be seeded with a native perennial grass and maintained until the surface is completely stabilized with a dense cover of grass and no danger of erosion exists. The DRB may require the disturbed area be fertilized and/or mulched as needed to prevent erosion and promote plant growth. The DRB may also require seedlings be planted on all or portions of the disturbed area to restore a formerly wooded site.

Section 4.5. Farm Product Sales and Farm-Based Businesses

(A) Purpose. It is the purpose of this section to promote continued agricultural activities in the town and support farmers' ability to diversify and remain economically viable through the manufacture, processing and/or sale of value-added farm products, and other farm-based commercial activities.

(B) Farm Stand Exemption. Farm stands that meet the standards below are exempt from these regulations and require no zoning permit.

(1) Location. The stand shall be located on agricultural or residential property.

(2) Products. The stand shall sell only fresh produce, fruit, cut flowers, Christmas trees, maple syrup, honey, etc. grown, produced or processed on land farmed by the property owner.

(C) Farm Stand Location. Farm stands, whether exempt or requiring a permit, may be located within required front yard setbacks, except that no stand shall be located within the road right-of-way.

(D) Farm Stand Traffic Safety. Farm stands, whether exempt or requiring a permit, shall not create a traffic hazard (i.e., vehicles parked on road, vehicles entering or existing the road in an area of limited sight distance, or blocking visibility at an intersection). The ZA may revoke a stand's exemption upon determining a traffic hazard is being created and the stand shall then require review as a conditional use under all applicable provisions of these regulations.

(E) Farm Stand Signs. In addition to signs allowed under Section 3.16, farm stands may display up to 4 temporary signs advertising the specific products currently available or in season. The total sign area of all signs shall not exceed 52 square feet. Signs shall not be displayed during seasons when the stand is not operating.

(F) Other Farm-Product Sales. Farm-product sales, including but not limited to farm stands unable to meet the standards for exemption, farmers' markets and CSA (community supported agriculture) distribution locations, may be allowed in designated zoning districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) Products Allowed. Sales may include value-added agricultural products. A minimum of 50% of business revenues shall be derived from products harvested, grown or produced within a 50-mile radius.

(2) Re-use of Farm Structures. Adaptive re-use of farm structures is encouraged. The DRB may waive dimensional requirements to allow for re-use of farm structures for non-agricultural purposes in conjunction with farm-product sales.

(3) Signs. Signs shall be in accordance with Section 3.16 of these regulations except that additional signs as per Paragraph (E) above may be allowed to advertise products currently in season.

(G) Farm-Based Businesses. Farm-based businesses, including but not limited to recreational or education activities, agritourism, ag-support businesses, or manufacturing and processing of value-added products, may be allowed in designated zoning districts as an accessory use to agriculture subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) Definition of Farm-Based. The business shall be owned and operated in conjunction with an agricultural operation that meets the state's definition of farming and shall be located on a parcel of land associated with an active farm. The processing, use and/or sale of agricultural products not grown or produced on the farm associated with the business shall be permitted, but a minimum of 50% of business revenues from any retail sales shall be derived from agricultural products grown or produced on the farm associated with the business. Under this provision, leased land shall be considered part of the farm.

(2) Re-use of Farm Structures. Adaptive re-use of farm structures is encouraged. The DRB may waive dimensional requirements to allow for re-use of farm structures for non-agricultural purposes in conjunction with a farm-based business.

(3) Signs. Signs shall be in accordance with Section 3.16 of these regulations except that additional signs as per Paragraph (E) above may be allowed to advertise products currently in season.

(4) Permit Limitations. The zoning permit shall clearly state that the use is limited to a farm-based business, approved in accordance with the above provisions and any conditions placed on it by the DRB, which is accessory to the agricultural use. A farm-based business may be subdivided or converted for sale or use apart from the agricultural use only if it meets all current town and state regulations pertaining to such use, including the standards for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale or conversion.

Section 4.6. Gas Station

(A)Gas stations may be allowed in designated zoning districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) Location. No new gas station shall be located within mile in any direction from an existing gas station as measured in a straight line from property boundary to property boundary.

(2) Setbacks for Equipment and Storage. Pumps and service equipment shall be located at least 50 feet from the street line and side lot lines, or outside the setbacks, whichever is greater. Pumps and service equipment shall be located behind the front line of the principal building on the lot. Placement of pumps and service equipment so that they are screened from the public road is preferred. All fuel and oil shall be stored at least 35 feet from any property line or outside the setbacks, whichever is greater.

(3) Access and Landscaping. Gas stations may be allowed up to 2 access driveways from the street. The maximum width of each access driveway shall not exceed 30 feet. Additional curbing, landscaping, screening or pedestrian walkways may be required by the DRB as needed to manage vehicle and pedestrian circulation on- and off-site, and to minimize adverse impacts to adjoining properties. If the station is located along a street with sidewalks, the sidewalk shall not be used as a parking area and the pumps shall be positioned so that vehicles are not parked on the sidewalk for fueling.

(4) Building and Canopy Design. Site layout and building design shall be compatible with the character of the neighborhood in which the gasoline station will be located. Flat-roofed station canopies shall be limited to the minimum area required for adequate pump and apron coverage and the minimum ceiling height necessary to meet applicable state and federal safety requirements. Alternative canopy designs, such as peaked roofs, are encouraged. Canopy scale and design shall be compatible with station design and with surrounding buildings.

(5) Parking and Fuel Delivery. Employee and customer parking shall be provided on-site in accordance with Section 3.13 of these regulations. Fuel delivery vehicles shall not be allowed to back in or out of the station, or to block access or circulation for customer traffic.

(6) Signs. Gas stations, in addition to the sign allowed under Section 3.16 of these regulations, may have either one pricing sign which does not exceed 16 square feet in area, or pump-top pricing signs, each not to exceed 2 square feet in area. Corporate logos shall be specifically prohibited on station canopies and canopies shall not be used for advertising.

(7) Lighting. Lighting shall be in accordance with Section 3.12 of these regulations. Canopies shall not be internally illuminated nor shall their fascia be illuminated. Shielded, indirect lighting recessed within the canopy may be allowed.

Section 4.7. Group Homes

(A) A residential care or group home that meets all of the following standards shall be permitted in all districts where single-family dwellings are a permitted use or in any single-family dwelling in existence as of the effective date of these regulations. [See 24 VSA § 4412(1)(G)]

(1) The group home shall be operated under state licensing or registration;

(2) The group home shall not serve more than 8 people who have a handicap or disability as defined in 9 V.S.A. § 4501; and

(3) The group home shall be located more than 1,000 feet from any other existing or permitted group home.

Section 4.8. Home Occupations and Home-Based Businesses

(A) Home Occupation. A home occupation that meets all of the following standards shall be considered an accessory use in all districts where single-family dwellings are a permitted use or in any single-family dwelling in existence as of the effective date of these regulations. No zoning permit shall be required for a home occupation.

(1) Scale of Home Occupation. The business owner and operator shall reside in the single-family dwelling on the lot and the business shall not employ any non-resident employees. The home occupation shall be carried on within a minor portion of the dwelling. The home occupation shall not occupy an area greater than 50% of the habitable floor area of the single-family dwelling.

(2) Retail Prohibited. Retail businesses shall not be permitted as home occupations. Notwithstanding, retail sales that are ancillary to the home occupation shall be permitted to the extent that they comprise a minor portion of the business's income (i.e., sales of hair care products by a hair stylist).

(3) Traffic. The business use shall not generate more than twice the number of average daily trips that would be generated by the residence according to the Institute of Traffic Engineers' Trip Generation Manual (latest edition).

(4) Storage, Display and Signs. Exterior display of products, the exterior storage of materials, or other exterior indications of the home occupation shall be prohibited. One unlit exterior sign shall be permitted in accordance with Section 3.12.

(5) Permit Limitations. The zoning permit shall clearly state that the use is limited to a home occupation, approved in accordance with the above provisions, which is accessory to the single-family residential use. Any proposed expansion of the home occupation beyond that permitted shall require a separate zoning permit for a home-based business or other allowed use as appropriate.

(B) Home-Based Business. Home-based businesses may be allowed in designated zoning districts as an accessory use to a dwelling subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) Scale of Home-Based Business. The business owner and operator shall reside in the dwelling on the lot, but the business may employ up to 4 non-resident employees. The business shall be carried on within the dwelling or accessory structure(s) provided that the use of those structures shall not have an undue adverse impact on the character of the property or area in which the property is located. No home-based business shall be permitted to operate at a scale or intensity that would diminish the residential character of the property or the area in which the property is located.

(2) Retail Allowed. On-site wholesale or retail sales may be allowed but shall be limited to products produced or assembled on the premises.

(3) Traffic. The business use shall not generate more than 4 times the number of average daily trips, including delivery truck traffic, which would be generated by the residence according to the Institute of Traffic Engineers' Trip Generation Manual (latest edition).

(4) Outdoor Storage and Screening. The business shall be visually compatible with neighboring uses. Landscaping and screening may be required as appropriate.

(5) Permit Limitations. The zoning permit shall clearly state that the use is limited to a home-based business, approved in accordance with the above provisions and any conditions placed on it by the DRB, which is accessory to the residential use. A home-based business may be subdivided or converted for sale or use apart from the residential use only if it meets all current town and state regulations pertaining to such use, including the standards for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale or conversion.

Section 4.9. Mobile Home Parks

(A) Purpose. The purpose of these regulations is to support provision of affordable housing while protecting the health, safety and welfare of town residents, specifically including those residing in a mobile home park. [See 24 VSA §§ 4412(1)(B) and 4412(7)(B)]

(B) Applicability. Proposed parks shall meet all applicable federal, state and town regulations, including but not limited to all applicable provisions of these regulations. Other than as specified below, alterations to park area, design, number of sites, layout or common facilities shall be subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) The owner of a mobile home within an approved mobile home park may apply for a zoning permit under Section 7.05 for an addition, porch, deck, shed or similar accessory structure in accordance with the standards of this section.

(2) The replacement of a permitted mobile home within an approved mobile home park shall require a zoning permit issued by the ZA in accordance with Section 7.05 in order to ensure ongoing compliance with all conditions of the park's approved development plan.

(C) Standards. A mobile home park may be allowed in any district where single-family homes are a permitted or conditional use subject to approval as a PUD by the DRB in accordance with Article 6, the density standards of the district(s) in which it will be located, and all of the following provisions.

(1) Minimum Site Area. Each mobile home shall be located on a dedicated and delineated site not less than 10,000 square feet in area, as shown on the site development plan.

(2) Mobile Home Site Setbacks. Each mobile home shall be set back a minimum of 15 feet and accessory structures shall be set back a minimum of 5 feet from the boundaries of adjacent mobile home sites and park roads.

(3) Mobile Home Park Setbacks. Mobile home parks shall meet all minimum district setback requirements along the perimeter of the park. No mobile home sites or other structures shall be located within the required setback areas. Setback areas shall not be included in the calculation of open space or recreation land that may be required under Subsection (5) below. The DRB may require increased setbacks or buffers as needed to mitigate higher densities of development or to protect adjoining properties.

(4) Roads and Drives. All roads serving the park shall meet the standards of Section 3.02. Mobile home parks may be allowed up to 2 access drives from the public road. Individual mobile homes shall be accessed from the park's internal road system rather than the public road.

(5) Open Space and Recreation. The DRB may require that land be set aside as common land for recreational use or open space. The DRB may require the installation of recreation amenities such as ball fields, playgrounds and/or trails.

(6) Service Area. At least one common, screened service area shall be provided for the storage and collection of trash and recyclables generated by park residents. The service area shall not be located within required setback areas or buffers.

(7) Park Management. The DRB may require a management plan for components of the park such as landscaped buffers, common lands, storage or service areas, roads, or other infrastructure. The mobile home park owner, or designated operator, shall be required to:

(a) Maintain all components of the park including buildings, roads, parking areas, utilities, infrastructure, landscaping, open space and common areas in good condition or, if applicable, as described in an approved management plan;

(b) Provide for the regular collection of recyclables, waste and garbage; and

(c) Remove snow from all roads and service areas.

Section 4.10. Mixed Use

(A) Any combination of permitted-by-right uses within a zoning district may be reviewed administratively. Conditional uses may be combined with other conditional or permitted uses subject to conditional use approval by the DRB in accordance with the provisions of Article 5. Mixed uses may be allowed on the same parcel or within the same structure. A mixed-use development must be well-designed to allow for the safe and harmonious flow of pedestrian and vehicle traffic.

Section 4.11. Residential Energy Generating System

(A) Applicability. A property owner must obtain a zoning permit for an energy generation facility that is not exempted from zoning review by Section 248 proceedings and Public Utility Commission review in any district in accordance with the standards of this section. The following standards apply.

(B) Setbacks. An energy generation apparatus not subject to Section 248 proceedings that is not mounted on a building must be set back a distance equal to its height or more from all property lines or the district minimum setback requirement, whichever is greater. Any guy wires must be located outside the minimum setbacks for the applicable district.

(C) Small Wind Energy Systems. Small wind energy systems may be allowed as an accessory use to a dwelling subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) The small wind energy system may consist of one or more towers not to exceed a total height, including the tower and the length of the blades, of 100 feet above the height of the ground at the base of the tower.

(2) The requested height of the system shall not exceed what is reasonably necessary to provide efficient operation of the system.

(3) The applicant shall take all reasonable measures to minimize any undue adverse visual or noise impact of the system.

(4) The tower shall be set back a distance equal or greater to the total height, including the tower and the length of the blades, from:

(a) Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road;

(b) Any overhead utility lines; and

(c) All property lines, unless written permission is granted by the adjoining landowner(s).

(D) Expiration and Removal. A residential energy system shall be considered discontinued if the system is out-of-service for more than a 12-month period. All structures associated with the energy system located outside the residence shall be removed upon discontinuation. Burden of proof falls on the property owner to demonstrate that a facility is not out-of-service.

Section 4.12. Telecommunications Antennas and Towers

(A) Purpose. It is the purpose of this section to regulate the placement, design, construction, removal and modification of telecommunication facilities in order to preserve the character and appearance of the town and protect its scenic, historic, cultural, and natural resources, while accommodating the telecommunication needs of residents, travelers and businesses.

(B) Consistency with Federal Law. These regulations are intended to be consistent with all applicable provisions of the 1996 Telecommunications Act and therefore shall not:

(1) Prohibit or have the effect of prohibiting the provision of personal wireless communication services;

(2) Unreasonably discriminate among providers of functionally equivalent services; nor

(3) Regulate personal wireless services based on the environmental effects of radio frequency emissions to the extent that these facilities comply with the FCC regulations concerning such emissions.

(C) Applicability. Except for (1) communications facilities exempted from zoning review in Section 1.06(A)(19), for (2) antennas with a face area less than 15 square feet, and (3) antennas and/or any mast support that extend less than 12 feet above the roof of that portion of the building to which the mast is attached (See 24 VSA § 4412 (8)(A), the provisions of this section shall apply to all FCC-licensed telecommunications facilities whether or not they are proposed to co-locate with exempt facilities or be mounted on an existing structure. The construction, installation, modification, or expansion of telecommunications antennas and towers may be allowed in designated zoning districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) Antennas on Existing Structures. The mounting of antennas on existing structures is preferred to construction of additional towers (antennas mounted on silos, steeples, utility poles, etc.). The DRB may waive height requirements to allow for mounted antennas that extend up to 50 feet as measured from the lowest elevation at the base or ground level of the existing structure.

(2) New Towers. Construction of new towers shall be approved only in conformance with the following:

(a) Spec Towers Prohibited. Applications shall be accepted only from a wireless service provider or FCC licensee, or landowner with an executed contract to provide land or facilities to one of those entities. Approval shall not be granted for facilities to be built on speculation.

(b) Adequate Coverage. The DRB shall not grant conditional use approval for a new tower unless it finds that there is no other existing facility that can provide adequate coverage in Rupert. To that end, the applicant shall submit written documentation of all existing telecommunication facilities in which it has a legal or equitable interest, or which are available for co-location, located within a 20-mile radius of the proposed site. The documentation shall include the following information for each site:

(i) Exact location in longitude and latitude and as plotted on a U.S.G.S. quad sheet or similar base map;

(ii) Ground elevation;

(iii) Height of tower or structure;

(iv) Type of antennas;

(v) Antenna gain;

(vi) Height of antennas on the tower or structure;

(vii) Output frequency;

(viii) Number of channels;

(ix) Power input and maximum power output per channel;

(x) Potential adjustments that could be made to provide adequate coverage in Rupert including, but not limited to, changes in antenna height, orientation, type, gain or power output;

(xi) Feasibility of using repeaters to provide adequate coverage in Rupert from the site; and

(xii) Radial or tiled coverage plots from each of the facility sites as they exist and as they may be modified.

(c) Co-Location Required. The DRB shall not grant conditional use approval for a new tower unless it finds that there is no possibility of co-locating the service on an existing tower or structure within a 20-mile radius of the proposed location. Any approvals granted for a new tower shall include a condition stating that other telecommunication service providers shall be allowed to co-locate subject to reasonable terms and conditions.

(d) District Setbacks. No tower, guy wire, foundation, accessory building or other associated structure, except fences, shall be located within required setback areas as specified for the zoning district in which the land is located.

(e) Tower Setbacks. Towers shall be set back a distance equal or greater to the total height, including the tower and the height of mounted antennas, from:

(i) Any public road right-of-way;

(ii) Any overhead utility lines; and

(iii) All property lines.

(f) Height. Total height, as measured from ground level at the base of tower to the highest point of the structure including any mounted antennas, shall not be permitted to extend more than 12 feet above the average height of the surrounding vegetation as measured within 500 feet of the tower. The DRB may waive this limitation upon finding that the additional height is necessary in order to provide reasonable service or to allow for co-location and that the additional height shall not cause an undue adverse visual impact.

(g) Mounting Height. No antennas or other equipment shall be mounted closer than 25 feet from the ground.

(h) Visibility. The DRB may require the applicant to fly a test balloon and document the visibility of the proposed tower from specified locations in order to assess the degree to which a proposed tower will be visible from public vantage points and/or nearby properties.

(i) Ridgelines and Hilltops. The placement of towers on prominent ridgelines shall be avoided to the greatest extent feasible. An applicant proposing to place a tower on or near the top of a ridge or hill in a manner that would result in the tower being silhouetted against the sky as seen from public vantage points shall be required to provide evidence that no other tower configuration or location within a 5-mile radius can reasonably provide the same service as the tower being proposed.

(j) Screening and Clearing. The DRB may require screening as deemed necessary to reduce the visibility of the tower or associated accessory structures and utilities from public vantage points or abutting properties. On forested sites, the amount of tree clearing shall be kept to the minimum necessary to accommodate the tower and any associated accessory structures, roads or utilities. Access roads and utility corridors shall be designed to follow natural contours and reduce their visibility from public vantage points to the greatest extent feasible.

(k) Design. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment to the greatest extent feasible through the use of color, material, finish and structural design. Use of reflective materials shall be avoided. Use of a matte gray finish is preferred when a tower will be silhouetted against the sky. The DRB may require the use of camouflage and/or a naturally appearing structure if deemed necessary to blend the facility into the surrounding landscape. No commercial signs or lettering shall be placed on a tower.

(l) Burying of Utilities. All utility systems shall be located underground throughout the project site. The DRB may waive this provision, as per Section 7.07, if burying the lines is deemed unreasonable and prohibitively expensive

(m) Lighting. Towers requiring lighting shall be prohibited, unless the DRB finds it the only viable alternative to meet reasonable facility requirements of a communications service provider. The only tower lighting that may be permitted is that required by FAA regulation. All other lighting on the site shall be shielded to minimize or prevent glare onto adjoining properties or into the night sky to the greatest extent feasible.

(n) Security. Access to the tower and associated accessory structures shall be restricted through a suitable fence, warning signs shall be posted and a gate shall be installed at the entrance to any access road.

(o) Co-Location. The DRB may require the applicant to allow future co-location on a proposed tower as a condition of approval.

(3) Interference Prohibited. No telecommunications facility shall be located or operated in such a way as to interfere with public safety telecommunications.

(4) Pre-Operation Report. The permitee shall submit a report to the ZA, prepared by an independent radio frequency engineer jointly selected by the town and permittee, before any new facilities or antennas are placed into operation documenting the background levels of non-ionizing radio frequency radiation around the site.

(5) Post-Operation Report. The permitee shall submit a report to the ZA, prepared by an independent radio frequency engineer jointly selected by the town and permittee, within 30 days of facility or antenna(s) being placed into operation documenting the background levels of non-ionizing radio frequency radiation around the site.

(6) Annual Report. The permittee shall submit an annual report to the ZA, prepared by an independent radio frequency engineer jointly selected by the town and permittee, no later than January 15, documenting the background levels of non-ionizing radio frequency radiation around the site, that the facility complies with all FCC standards and that the facility continues to operate. The report shall also include:

(a) A list of the most recent Federal Communications Board RFR readings at the site, their distances from the telecommunications facility/transmitter, dates of the readings and the name of the person or company who took the readings.

(b) A list of all antennas and equipment in use during the previous calendar year, including identification of any companies/entities renting space and/or equipment.

(7) Permit Renewal. Upon conditional use approval, the ZA shall issue a permit for the facility, which shall expire 2 years from the date of issuance. Upon receipt of the facility's annual report and finding the facility in compliance with all conditions of approval, the ZA shall extend the facility's permit for 1 additional year.

(8) Abandonment and Removal. A permit issued for a telecommunications facility shall be revoked if the facility is out-of-service or otherwise unused for a continuous 12-month period, if the required annual report is not received within 15 days of its due date, or if the structure is found to be unsound. All structures associated with the facility shall be removed within 6 months of the permit expiration or revocation.

(D) de Minimis Review. Upon request of the applicant, the ZA may review an application for a telecommunications facility and upon determining that the application will impose no or de minimis impact upon any criteria established in these regulations shall approve the application. An application that includes any of the following shall not be determined to have a de minimis impact:

(1) New road or tower construction;

(2) Increase in the height of a structure;

(3) Increase in the visibility of telecommunications facilities as viewed from public vantage points; or

(4) Increase in the number of antennas mounted on an existing tower.

Section 4.13. Vehicle and Equipment Sales and Service

(A) Vehicle and equipment sales and service may be allowed in designated zoning districts subject to conditional use approval by the DRB in accordance with the provisions of Article 5 and all of the following:

(1) Sales Display. No vehicles or equipment being displayed for sale shall be parked or placed within required setbacks. No vehicles or equipment shall be mounted on a moving display structure.

(2) Outdoor Storage and Screening. No materials, equipment, vehicles or parts be stored within required setbacks. The business shall be visually compatible with neighboring uses. Landscaping and screening may be required as appropriate.

Section 4.14. Wood Processing

(A) Processing firewood or lumber for your own personal use is allowed in all zoning districts without a permit.

(B) Commercial firewood processing and lumber production for are a conditional use.

Article 5. Development Review Standards

Section 5.1. Applicability

(A) The DRB shall use these standards when reviewing applications for conditional uses, PUDs, subdivisions and amendments. If these standards conflict with any other applicable provisions of these regulations, the more stringent shall apply.

(B) The DRB shall find that the proposed development will not result in an undue adverse impact on the applicable standards of this article.

(C) The DRB may impose conditions as appropriate to ensure conformance with these standards and all applicable provisions of these regulations.

(D) The ZA shall not issue a zoning permit for any use or structure that requires conditional use, PUD or subdivision approval until the DRB grants such approval in accordance with the following standards and all other applicable provisions of these regulations.

Section 5.2. Character of the Area

(A) General. The DRB shall consider the location, scale, type, density and intensity of use associated with the proposed development in relation to the character of the area likely to be affected. The character of the area shall be determined by the DRB based on the Rupert Town Plan, applicable zoning district purposes and standards, and submitted materials and testimony. [See 24 VSA § 4414(3)(A)(ii)]

(B) Criteria. When determining the character of the area, the DRB may consider some or all of the following as applicable:

(1) Existing and planned pattern of development, uses and types of buildings in the area.

(2) Intensity, uniformity or mix of uses and buildings.

(3) Mass, scale and spacing of buildings.

(4) Noise and traffic.

(5) Privacy, security, sense of community and cohesion.

(6) Scenic views, aesthetics and open space.

(7) Historic buildings and features.

(8) Goals, objectives and policies of the Rupert Town Plan.

(9) Zoning district purposes and standards.

(C) The existence of one conditional use in an area shall not be interpreted as justification for another similar conditional use to be located there.

Section 5.3. Community Services or Infrastructure

(A) General. The DRB shall consider the demand for community services and facilities resulting from the proposed development in relation to the available or planned capacity of such services and facilities. Available capacity may be determined in part through consultation with other municipal and/or state officials having jurisdiction over affected services and facilities Conditions may be imposed as appropriate to ensure that the demand for community facilities or services does not exceed existing or anticipated available capacity. [See 24 VSA § 4414(3)(A)(i)]

(B) Water and Sewer. The development shall have sufficient water and sewer capacity available for its needs and shall not result in an unreasonable burden on the town's current or planned water or sewer systems. If public water or sewer is not involved, the property shall have adequate capability for on-site water supply and wastewater disposal in accordance with applicable state regulations. The DRB may solicit input of appropriate municipal officials/staff and/or require engineering reports by the applicant.

(C) Fire Protection Facilities. The development shall have access to adequate facilities for fire protection. The DRB may require the applicant to install infrastructure to suppress or fight fire such as sprinkler systems, fire hydrants, dry hydrants, cisterns or ponds. The DRB may require the applicant to construct roads and driveways to minimum standards, including the installation of pull-outs and/or turn-around areas as necessary, to accommodate emergency vehicles and equipment. The applicant may be asked to submit documentation from the fire department as to the adequacy of emergency access and fire protection facilities. The DRB may solicit input from the fire department.

(D) Municipal Impact. The development shall not create an undue burden on municipal facilities or create an unreasonable demand for public services. It shall not endanger public investments or interfere with the use and enjoyment of community facilities, services or lands. The DRB may consider whether the anticipated tax return from the proposed development is equal to or exceeds the cost of anticipated municipal services and facilities directly attributable to the proposed development, and whether the proposed development will place an unreasonable burden on the ability of local governmental units to provide necessary services and facilities. The applicant may be asked to submit a fiscal impact analysis. The DRB may solicit input from appropriate officials/staff and other qualified professionals.

Section 5.4. Design

(A) The DRB shall consider whether the design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and requirements, existing site conditions and features, and adjoining structures and uses. Conditions may be imposed with regard to siting, density, setbacks, height, massing, materials, color, reflectivity and/or orientation, to ensure compatibility. A design or visual impact analysis may be required to identify potential adverse impacts and appropriate mitigation measures.

Section 5.5. Energy

(A) General. The DRB shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Energy efficient site design and layout and building construction is encouraged. At a minimum, the DRB shall consider: [See 24 VSA §§ 4414(3)(A)(v) and 4416]

(1) Whether the project will unreasonably harm any neighbor's access to solar energy or other alternative energy utilization.

(2) Whether the project will appropriately incorporate the principles of energy conservation and the best available technology that is practicable for efficient use and recovery of energy.

(3) Whether the project will be able to be served by existing and permitted utility facilities, without excessive demands or adverse indirect impacts.

(B) Energy Conservation. In order to promote energy conservation, to the extent that is economically and environmentally feasible:

(1) Buildings should be oriented to maximize solar gain, solar energy generation and day-lighting opportunities. Buildings that are designed with uninterrupted south facing roof expanses and orientations within 15 degrees of true south are encouraged.

(2) Landscaping should be effectively incorporated to provide wind barriers and to reduce heat loss or gain as appropriate.

(3) The siting of lots and buildings should minimize the length of road and utility corridors required.

(4) Supporting infrastructure for alternative modes of transportation (i.e., interconnected bicycle and pedestrian paths, sidewalks, transit stops) shall be incorporated into development plans as appropriate.

Section 5.6. Historic, Archaeological and Cultural Resources

(A) The DRB shall consider whether the proposed development the proposed development will have any undue adverse impact on historic, archaeological, or cultural resources. To that end:

(1) Development should be designed to maintain the historic context of the site, as defined by any historic structures located on the property and in the immediate vicinity of the site, and to minimize the impact of new development on the historic and architectural integrity of historic resources.

(2) The location of lot lines and development envelopes should be configured to reflect the settlement pattern of nearby historic structures, and to minimize the contrast between contemporary and historic development.

(3) Historic features, such as buildings and stonewalls, should be preserved and integrated into project design to the greatest extent feasible.

(4) Prior to development on sites that have been identified as being archaeologically sensitive in the Rupert Town Plan or through field investigation, the DRB may require a site assessment to identify the presence and relative value of archaeological resources on the site and to document the archaeological resource and/or recommend strategies for its protection.

Section 5.7. Landscaping and Screening

(A)The DRB shall consider whether the proposed development meets the general intent and specific requirements of Section 3.09 of these regulations. Landscaping and screening may be required to: [See 24 VSA § 4416]

(1) Provide an undisturbed, vegetated buffer between developed and undeveloped portions of a subdivision to protect water quality and/or other natural features;

(2) Provide for stormwater infiltration and management;

(3) Provide screening of development to increase privacy, reduce noise and glare, or to otherwise soften and/or lessen its visual impacts;

(4) Establish and maintain street trees along public or private roads to create a canopy effect and/or maintain a pedestrian scale where the DRB deems appropriate;

(5) Preserve existing specimen trees, tree lines, hedgerows, and wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat as identified in the Rupert Town Plan or through field investigation; and/or

(6) Establish buffers or barriers between incompatible land uses.

Section 5.8. Local Laws and Town Plan

(A)The DRB shall consider whether the proposed development is in conformance with all applicable requirements of these regulations (including, but not limited to, the general standards in Article 3), any capital budget and program, official map, other locals laws or ordinances, town permit and/or approval conditions (i.e., subdivision or highway access) and is consistent with applicable goals, objectives and policies of the Rupert Town Plan. [See 24 VSA § 4414(3)(A)(iv)]

Section 5.9. Natural Resources

(A)The DRB shall consider whether the land to be developed will be able to support the intended use without undue adverse impact on important natural resources or fragile features located on the parcel, including agricultural or forest land, wetlands, steep slopes, rivers and streams, critical wildlife habitat and habitat diversity, groundwater source protection areas, fluvial erosion hazards (mapped river corridors) and/or flood plains identified in the Rupert Town Plan or through field investigation. An environmental assessment may be required to determine potential adverse impacts and appropriate mitigation measures. The DRB may require measures to ensure the protection of natural resources and fragile features including but not limited to:

(1) Reduction in density of development or intensity of use;

(2) Establishment of buffer areas;

(3) Permanent protection through conservation easements or other deed restrictions;

(4) Designation of building envelopes to ensure that activities incidental to the development, including clearing and yard area, do not adversely impact identified resources; and/or

(5) Preparation and implementation of management plans for protected resources and associated buffer areas.

Section 5.10. Recreation

(A) The DRB may require the dedication of land or easements for parks, playgrounds, trails or pathways or other recreation purposes. All such land shall be of a reasonable character for its intended use. Applicants are encouraged to maintain any existing public recreational access on property being developed to the greatest extent feasible.

Section 5.11. Traffic and Circulation

(A) General. The DRB shall consider the potential impact of projected traffic resulting from the proposed development in relation to the condition, capacity, safety and function of roads, parking and associated infrastructure (ex. bridges, culverts) potentially affected by the proposed development. The DRB shall consider and seek input as appropriate related to: [See 24 VSA §§ 4414(3)(A)(iii) and 4416]

(1) Public safety;

(2) Traffic plans or studies;

(3) Pedestrian and bicycle needs;

(4) Public transit needs; and

(5) Alternatives that reduce driving and traffic.

(B) Traffic Impact Study. A traffic impact study may be required, particularly for uses that generate in excess of 50 trips per day or will significantly increase the amount or weight of truck traffic. A traffic impact study shall include the following, unless specifically waived by the DRB:

(1) Identification of all roads and intersections potentially affected by the project.

(2) Statement of existing and projected traffic conditions for a minimum of a 5-year period.

(3) Comparison of operating levels of service for affected roads and intersections with and without the proposed development, as of its opening date, and projected for a 5-year period.

(4) Identification of any adverse traffic, road or intersection impacts, and a description of the improvements needed to provide an acceptable level of service.

(C) Level of Service. For development that will cause the level of service to fall below “C” for the identified design hour, or that will contribute to an existing level of service “D” or “F”, as defined in VTrans’ Highway Capacity Manual, or any successor standard adopted by VTrans, the DRB may require off-site road or intersection modifications as appropriate for the area (i.e., the installation of frontage roads, turning lanes, or signals as warranted) as a condition of approval.

(D) Pedestrian and Bicycle Access. The DRB may require provision for pedestrian circulation within the site, and access through the site to adjacent properties and along roads. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon the property’s location, site conditions and proximity to other facilities. Bicycle racks may be required for commercial and public uses intended for general public access. In addition, adequate access from the parking area and sidewalks to the building(s) that are open to the public shall be provided for people with disabilities in accordance with applicable state and federal laws.

Article 6. Subdivision and Planned Unit Development (PUD) Standards

Section 6.1. Subdivision

(A) Applicability. Except as provided for in Section 3.04 of these regulations, the DRB shall evaluate any subdivision of land in accordance with the standards set forth in this article, Article 5 and all other applicable provisions of these regulations.

(B) General Standards.

(1) Character of the Land. All land to be subdivided shall be, in the judgment of the DRB, of such a character that it can be used for intended purpose(s), as stated in the application, without danger to public health or safety, and without undue adverse impacts to the environment, neighboring properties, or the character of the area as described in the purpose of the zoning district in which it is located and the Rupert Town Plan.

(2) Compatibility with Existing Settlement Patterns. Subdivisions shall be designed and laid out to achieve the purpose and desired settlement pattern of the district in which they are located. To the extent feasible, new subdivisions of land shall:

(a) Maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations, for the neighborhood or district in which they are located;

(b) Maintain contiguous tracts of open land with adjoining parcels; and

(c) Connect to, and extend where appropriate, existing road, path, utility and open space corridors.

(3) Density and Lot Layout. Density, lot size and layout shall conform to zoning district standards, and general standards pertaining to frontage, lot and yard requirements, unless modified or waived by the DRB under the PUD provisions below. In addition:

(a) Lower densities of development may be required by the DRB based on site limitations.

(b) Lot layout shall be appropriate for the intended use and reflect the purpose of the district in which the lots are located.

(c) Lots with frontage on more than one road shall have sufficient width to permit a front yard setback from each road.

(d) Side lot lines shall be generally at right angles to straight roads, or radial to curved roads.

(e) Lots with irregular shapes (curves, jogs, dog-legs, flag lots, etc.) shall not be created unless warranted by conditions of topography, the location of natural features, or existing roads.

(4) Establishment of Development Envelopes. All newly created lots shall have a designated development envelope. Development envelopes shall be designated to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements, and water and wastewater systems) on one or more portions of a lot. The size and shape of development envelopes shall at minimum be determined by district setback requirements, unless otherwise specified in these regulations or established by the DRB.

(C) Protection of Natural Resources. Subdivision boundaries, lot layouts, the location of roads, driveways and infrastructure, and development envelopes shall be located and configured to avoid undue adverse impact to natural and scenic resource features as identified in the Rupert Town Plan and in field evaluations by natural resource professionals.

(1) Design Process. All subdivisions shall be prepared with a process that first identifies natural and scenic resources and then lays out the subdivision to preserve the identified resources to the greatest extent feasible.

(2) Field Evaluations. The DRB may require an applicant to conduct independent evaluations and mapping where the DRB finds there are likely important natural resource features, habitat or scenic vistas that would be affected by a project and need to be delineated and evaluated to properly include these in the design of a project.

(3) Development Envelopes. Development envelopes shall be located and configured to avoid or minimize impact on natural resource features and highly scenic vistas, ridgelines and knolls that are visible from public vantage points.

(4) Clearing Limits. The DRB may establish clearing limits to minimize forest fragmentation, maintain contiguous forest cover, preserve wildlife habitat and travel corridors, and limit the visibility of new development.

(5) Resource Fragmentation. Lot lines, infrastructure and road, driveway and utility corridors shall be located to avoid and minimize the parcelization, fragmentation, or destruction of resource features and natural scenic beauty. The design and layout of the project shall complement adjacent preserved lands, conservation easements, and private deed restricted areas.

(6) Existing Site Features. Where sites include features such as existing roads, tree lines, mature specimen trees, stone walls, fence lines, trails or paths, streams and wildlife corridors, the design shall work around, conserve or utilize those as appropriate to minimize new impacts and preserve desirable elements.

(7) Infrastructure. Roads, driveways and utility corridors shall be laid out to minimize impact and shall be shared where practical.

(D) Disclosure of Subsequent Development Plans. Whenever a proposal is submitted for development on a minor portion of a parcel, the DRB may ask the applicant to provide a general indication of the intended use of the remaining portion of the land. Such indication shall include at minimum a written description of the proposed type and intensity of use, access and approximate timeframe for the development of the remainder of the parcel. Such an indication shall not be used to restrict the future development possibilities of the remaining portion of the land.

(E) Master Plan for Phased Subdivisions. For phased subdivisions, the DRB may require submission of a conceptual master plan for the entire parcel that at a minimum identifies:

(1) Conservation areas and other common land and open space;

(2) Proposed development areas;

(3) The general location of proposed infrastructure, including road, utility and green space corridors; and

(4) An estimate of the type, density, and timing of future development.

Section 6.2. Planned Unit Developments (PUDs)

(A) Purpose. These planned unit development (PUD) provisions are intended to accommodate new development in a manner that maintains the town's traditional settlement patterns, is compatible with the character of the area as described in the Rupert Town Plan and the purpose of the zoning district(s) in which the project is located, and which offers owners the flexibility to creatively develop their property. The purpose of these provisions is to implement the goals and policies of the Rupert Plan as most recently amended as of the effective date of these regulations.

(B) Applicability. The PUD provisions may be applied to any land development in the Town of Rupert at the request of the applicant. The PUD provisions shall be applied to any subdivision of 5 or more lots.

(C) Parcels in Multiple Districts. Where a district boundary line divides a parcel, the development of a single PUD shall be allowed with a total density based on the combined allowable density of each district. Development may be located on any portion of the parcel, regardless of zoning district, in accordance with the standards set forth in these regulations. The provisions of Section 2.01(C)(4) of these regulations shall not be used to increase the combined development potential of parcels located in more than one zoning district.

(D) Base Density. The overall density of the project shall not exceed the number of lots or dwelling units permitted as set forth in the standards for the district(s) in which the land is situated (base density), except as specifically provided for in this article.

(E) Open Space, Working Land or Common Land. PUDs shall be designed to preserve open space areas, working land, and/or common land for parks, recreation, greenways, scenic resource protection, historic resource protection, and/or preservation of agricultural or forest lands, wildlife habitat and environmental quality.

(1) Minimum Open Space Requirements. PUDs in the:

(a) Resource Management, Rural Residential and Agricultural districts shall set aside a minimum of 50% of the parcel as open space.

(b) Village Neighborhood district shall set aside a minimum of 30% of the parcel as open space.

(c) Village Center and Village Residential district shall set aside a minimum of 10% of the parcel as open space.

(2) Preservation of Open Space. The location, size and shape of lands set aside to be preserved for open space shall be approved by the DRB, in accordance with the following:

(a) Designated open space may include the portion of a single lot outside of the development envelope that is characterized by important natural resources and/or may encompass the contiguous boundaries of important natural resources located on multiple lots.

(b) The location, shape, size and character of the open space shall be suitable for its context and intended use. A single, contiguous area of open space is preferred unless the DRB agrees that multiple, non-contiguous open space areas would better protect the specific resources or features of a particular property and/or allow for a better overall development pattern on the site.

(c) Open space land shall be located to conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels.

(d) Provisions shall be made to enable open space designated for agriculture and forestry to be used for these purposes. Management plans may be required by the DRB as appropriate to ensure the long-term protection and management of working lands. Areas conserved for agricultural and forestry use should be of a size suitable for their intended use and that retains their eligibility for available tax abatement programs.

(e) Utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the DRB, that those uses in no way disrupt or detract from the values for which the open space is to be protected. Wastewater treatment and stormwater management practices or facilities that require, incorporate or establish open space areas may be counted as open space.

(3) Common Land and Infrastructure. Land held in common for the preservation and maintenance of open space or natural resource areas shall be established separate from the maintenance and protection of shared infrastructure such as community wastewater systems, recreation facilities, roads and utility rights-of-way.

(4) Ownership and Legal Requirements. The DRB may require that protected open space be dedicated, either in fee simple or through a conservation easement approved by the DRB, to the town, a community association comprising all of the present and future owners of property within the development, or a non-profit land conservation organization. The DRB may allow open space land conserved for agricultural or silvicultural use to be transferred or sold to a private owner to facilitate ongoing productive use. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to deed restrictions stipulating the permitted and restricted use of such land and establishing the person or entity responsible for maintenance and long-term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent landowners.

(F) Rural Standards. PUDs in the Agricultural, Resource Management and Rural Residential districts shall be designed to blend new development into the agricultural or forest landscape, and to maintain the town's rural character, both visually and as a functional working landscape. To this end:

(1) PUDs in those districts shall set aside a minimum of 50% of the project area as undevelopable land in accordance with the following principles:

(a) If the parcel to be developed is currently productive agricultural land, the acreage set aside should be of a quality, size and configuration that makes continued agricultural use possible unless the DRB agrees that doing so would result in undue adverse impact to any important natural resources identified on the parcel.

(b) If the parcel to be developed is largely forested, forest fragmentation and tree removal should be kept to a minimum.

(2) PUDs to be located on primarily open agricultural land should be designed to do one or more of the following:

(a) Preserve working land by locating house sites along the edges of fields, pastures and woodlots. Roads, drives and property lines are encouraged to follow existing site features such as walls, fence lines and hedgerows. Homes should be located to provide an adequate buffer between the residential and agricultural use.

(b) Replicate a traditional Vermont farmstead, characterized by a variety of building scales reminiscent of the appearance of a principal dwelling and a mix of barns and agricultural outbuildings located within a compact area surrounded by open farmland. Use of multi-unit structures and/or accessory units is encouraged.

(c) Replicate a traditional Vermont hamlet or crossroads, characterized by a concentration of primarily residential structures, located at a road intersection, bounded by farm or forest land. Buildings should be oriented towards roads, one another and/or the green or park.

(3) PUDs to be located on primarily forested land shall be designed to maintain the appearance of an unbroken forested canopy and to blend new development into the landscape as viewed from off-site, to protect natural resources and wildlife habitat, and to provide for the sustainable, ongoing management of forest resources to the greatest extent feasible by:

(a) Maintaining a forested buffer between homes and along the public road;

(b) Minimizing lot coverage and building footprints;

(c) Avoiding long driveways or large parking areas;

(d) Clearing only as much vegetation at the edge of the road as necessary to create a driveway entrance with adequate sight distance and proper drainage control;

(e) Retaining existing or planting additional woody vegetation in undisturbed, naturalistic groupings, rather than singly as specimen trees or in a linear or regular pattern, within cleared areas;

(f) Using native vegetation;

(g) Minimizing lawn area; and

(h) Selectively cutting small trees and the lower branches of large trees, rather than removing mature trees, to create narrow view corridors between trees and beneath tree canopies.

(G) Village Standards. PUDs in the Village Neighborhood, Village Center and Village Residential districts shall be designed to be compatible with the character of a traditional New England village as described in the Rupert Town Plan and the purposes of the zoning district(s) in which the project is located. To this end, PUDs in these districts:

(1) Shall propose lot sizes and setbacks typical of a traditional village business district or residential neighborhood, as appropriate, unless the DRB agrees that this is not feasible due to issues such as provision of septic and water.

(2) Shall propose roads that will establish, extend or allow for future connections to a village street network, unless the DRB agrees that this is not feasible due to site conditions such as topography. The DRB may require the establishment of rights-of-way and/or street stubs to allow for future road connections to adjacent properties.

(3) Are encouraged to provide a range of housing opportunities. To this end:

(a) The DRB may approve a density bonus of up to 50% if the excess units are dedicated to providing housing for residents aged 55 or older, people with disabilities, and households with low to moderate incomes (as defined by the Rupert Town Plan). The units shall be dedicated to such a purpose through legally binding means for a period of not less than 25 years.

(b) The DRB may approve a range of housing types including, but not limited to, apartments, attached dwellings, condominiums, mixed-use structures, mobile homes and multi-unit structures. Consideration shall be given to whether the proposed structures and site design will be compatible with the character of a traditional village as described in the Rupert Town Plan and the purposes of the zoning district(s) in which the project is located.

(4) Are encouraged to include a mix of uses within a single project or building. To this end:

(a) The DRB may waive the maximum footprint requirement for mixed-use projects that include both residential and non-residential uses. Consideration shall be given to whether the proposed structure and uses will be compatible with the character of a traditional village as described in the Rupert Plan and the purposes of the zoning district(s) in which the project is located.

Article 7. Administration and Enforcement

Section 7.1. Zoning Administrator

(A) A Zoning Administrator (ZA) shall be nominated by the Planning Commission and appointed by the Selectboard for a 3-year term to administer these regulations. [See 24 VSA § 4448]

(B) The Planning Commission may nominate and the Selectboard may appoint an Acting Zoning Administrator who shall have the same duties and responsibilities as the ZA in the ZA's absence or in cases of conflict of interest.

(C) After consultation with the Planning Commission, the Selectboard may remove the ZA at any time for cause.

(D) The ZA shall literally enforce the provisions of these regulations and in so doing shall inspect development, maintain records and perform all other necessary tasks to carry out the provisions of these regulations. The ZA shall not permit any land development that is not in conformance with these regulations.

(E) The ZA shall coordinate a unified effort for the town in administering its development review programs. The ZA shall provide applicants with all forms required to obtain permits or approvals under these bylaws and should assist applicants in navigating the town's regulatory processes. The ZA shall inform applicants applying for town permit or approvals to contact the state's regional permit specialist in order to assure timely action on any related state permits. However, it remains the applicant's responsibility to identify, apply for and obtain the necessary state permits.

Section 7.2. Development Review Board

(A) Upon adoption of these regulations, the Zoning Board of Adjustment shall become the Development Review Board (DRB) and the development review functions of the Planning Commission shall be transferred to the DRB.

(B) DRB shall perform all development review functions under these regulations. [See 24 VSA § 4460]

(C) Except for appeals of ZA's decisions, all matters shall come before the DRB by referral from the ZA.

(D) The Selectboard shall appoint 5 to 9 members to serve on the DRB. The Selectboard may appoint alternates to serve on the DRB in situations where one or more members of the board have a conflict of interest or are otherwise unable to serve. The Selectboard may remove any DRB member for cause upon written charges and after a public hearing. [See 24 VSA § 4460]

(E) All meetings of the DRB, except for deliberative sessions, shall be open to the public.

Section 7.3. Planning Commission

(A) A Planning Commission (Planning Commission) shall have 3 to 9 voting members appointed by the Selectboard, a majority of which are residents of the town. Selectboard members shall be nonvoting, ex officio members of the Planning Commission. Any Planning Commission members may be removed at any time by a unanimous vote of the Selectboard. [See 24 VSA § 4323]

Section 7.4. Fees

(A) The Selectboard may establish reasonable fees to be charged with respect to the administration of these regulations. These fees may include the cost of posting and publishing notices, holding public hearings, and conducting periodic inspections during construction. [See 24 VSA § 4440]

Section 7.5. Zoning Permit

(A) No land use development requiring a zoning permit shall commence until the ZA issues a permit in conformance with these regulations and the 15-day period for appeal under Section 7.06(A) has passed. In the event that a notice of appeal is properly filed, no land use development shall commence until the appeal has been decided. [See 24 VSA §§ 4449(a)(1) and (3)]

(B) An application for a zoning permit shall be submitted to the ZA on forms provided by the town, along with any application fees as established by the Selectboard.

(C) Upon receipt of an application and the associated fee, the ZA shall determine whether the application is complete. After an application is deemed complete, the ZA has 30 days to approve, deny or refer the application to the DRB. Failure to act within 30 days shall be deemed approval. [See 24 VSA § 4448(d)]

(D) The ZA shall approve or deny permits in writing, in accordance with the Act. Denials shall include a statement of the time in which appeals may be made under Section 7.06(A) of these regulations. Information regarding permit display under Paragraph (H) shall be issued with the zoning permit as applicable. [See 24 VSA § 4449(b)]

(E) The ZA shall only issue a zoning permit in accordance with the Act and the following provisions:

(1) No zoning permit shall be issued by the ZA for any development that requires the approval of the DRB and/or Selectboard until such approval has been obtained.

(2) No zoning permit shall be issued by the ZA for development on a lot for which subdivision approval is required until such approval has been obtained and the plat has been properly recorded.

(F) The ZA shall deliver a copy of the permit to the Listers and shall post a copy of the permit at the Town Office within 3 days after issuing a permit. The permit shall be posted for a period of 15 days from the date of issuance. [See 24 VSA § 4449(b)]

(G) The ZA shall deliver an original, signed copy of the permit or memorandum of municipal action to the Town Clerk for recording within 30 days after issuing a permit. The ZA shall also file a copy of the permit as part of the ZA's records in the town offices. [See 24 VSA § 4449(b)]

(H) The notice of a zoning permit shall be posted on the property within view of the nearest public right-of-way for a period of 15 days from the date of issuance. The ZA may provide the applicant with a form for posting as prescribed by the town. The applicant is responsible for posting the notice and ensuring that it remains posted throughout the appeal period. [See 24 VSA § 4449(b)]

(I) Zoning permits and associated approvals shall remain in effect for 2 years from the date of issuance, unless the permit specifies otherwise. All development authorized by a zoning permit shall be substantially commenced within this period or the zoning permit shall become null and void. If a permit expires, the applicant shall begin the application and approval process anew. The ZA may grant a single, 1-year administrative extension if the extension is requested before the permit expiration date and the ZA determines that all improvements completed to date conform to permit requirements and these regulations.

Section 7.6. Appeals

(A) Appeal of an Act or Decision of the ZA.

(1) In addition to the applicant, any interested person (as defined in Section 7.12 of these regulations) may appeal a decision or act of the ZA by filing 2 copies of a notice of appeal within 15 days of the decision or act with the Town Clerk, who shall immediately notify the Chair of the DRB and the ZA that an appeal has been filed. [See 24 VSA § 4465(a)]

(a) One copy of the notice of appeal shall be forwarded to the ZA and the other shall be forwarded to the DRB.

(2) A notice of appeal shall be in writing and shall include the following information: [See 24 VSA § 4466]

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

(b) A copy of the ZA's decision (if appeal of a zoning permit, also include a copy of the permit application);

(c) A brief description of the property with respect to which the appeal is being brought;

(d) A reference to the applicable provisions of these regulations; and

(e) Any relief being requested by the appellant, including a request for a variance or waiver.

(3) If an interested person other than the applicant files the appeal, the ZA shall immediately inform the applicant that an appeal has been filed and advise the applicant that the project shall not commence until the appeal has been decided as per Section 7.05(A).

(4) The DRB shall hold a public hearing on a notice of appeal within 60 days of its filing. The hearing shall be warned as per Section 7.13(A) of these regulations. [See 24 VSA § 4468]

(5) The DRB may reject an appeal without a hearing and render a decision within 10 days of the filing of a notice of appeal, if the DRB determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on the same facts, by or on behalf of the appellant. [See 24 VSA § 4470]

(6) The DRB shall issue a written decision, with findings of fact, within 45 days after closing the hearing in accordance with Section 7.15 of these regulations. [See 24 VSA § 4464(b)]

(B) Variance. [See 24 VSA § 4469]

(1) The procedures below apply to an appellant (person bringing the appeal) who has been denied a permit or told that a permit cannot be issued by the ZA , who is appealing that decision and who is proposing a project that would require deviating from the provisions of these regulations.

(2) The steps to be taken to file and review a request for a variance are the same as those specified in Paragraph (A) of this section, with the addition of the following:

(a) In addition to the submittal requirements listed in Paragraph (A)(2) of this section, the appellant's notice shall also include a brief response to each of the conditions listed in Subparagraph (B)(3), (B)(4) or (B)(5) as applicable.

(b) The DRB shall make its decision on the request for variance by applying the facts presented in the request for a variance and at its hearing to the conditions listed in either Subparagraph (B)(3) or (B)(4), as applicable. All conditions shall be met for the DRB to grant a variance. The DRB shall respond to each condition in its written findings of fact.

(3) General Conditions. The DRB shall only grant a variance if all of the following conditions are met. A variance shall not be granted to allow the establishment of a prohibited use (i.e., a use that is not permitted or conditional in the zoning district in which the property is located) or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

(a) 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 appellant.

(b) 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.

(c) The appellant has not created the unnecessary hardship.

(d) The proposed project would not:

(i) Alter the essential character of the neighborhood or district in which the property is located.

(ii) Substantially or permanently impair the appropriate use or development of adjacent property.

(iii) Reduce access to renewable energy resources.

(iv) Be detrimental to the public welfare.

(e) The appellant is proposing the least deviation possible from these regulations and from the town plan that will afford relief.

(4) Renewable Energy Structure Conditions. If a variance is being requested for a structure that is primarily a renewable energy resource structure, the DRB shall only grant a variance if all of the following conditions are met.

(a) It would be unusually difficult or unduly expensive for the appellant to build a sustainable renewable energy resource structure in conformance with these regulations.

(b) The appellant has not created the unnecessary hardship.

(c) The proposed project would not:

(i) Alter the essential character of the neighborhood or district in which the property is located.

(ii) Substantially or permanently impair the appropriate use or development of adjacent property.

(iii) Reduce access to renewable energy resources.

(iv) Be detrimental to the public welfare.

(d) The appellant is proposing the least deviation possible from these regulations and from the town plan that will afford relief.

(5) FHO Conditions. If a variance is being requested for development within the Flood Hazard Overlay District, the DRB shall only grant the variance if all of the conditions of Subparagraph (B)(3), 24 VSA § 4424(E) and 44 CFR 60.06 are met and if it determines the proposed development will not increase flood heights. No variance shall be granted without a statement from the Vermont Agency of Natural Resources confirming that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse. As part of its written decision, the DRB shall inform the appellant that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for $100 of insurance coverage. A copy of the variance shall be affixed to the property's deed and filed in the Town Land Records.

(C) Appeal of an Act or Decision of the DRB. Any interested person who participated in a hearing on a matter before the DRB may appeal that decision to the Vermont Environmental Court. Notice of appeal shall be sent to every interested person who participated in the town hearing. [See 24 VSA § 4471 or contact the Environmental Court at 802.828.1660]

Section 7.7. Waivers

(A) Purpose. This section is intended to provide the DRB flexibility to adjust specific provisions and requirements of these regulations in response to the unique characteristics of a particular project and/or property in order to accommodate reasonable land use and development in the Town of Rupert. To this end, the DRB may grant waivers to standards and requirements as authorized in these regulations and in accordance with the provisions of the section. A waiver shall not be granted to allow the establishment of a prohibited use (i.e., a use that is not permitted or conditional in the zoning district in which the property is located) or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

(B) Development or Dimensional Standards.

(1) Applicability. Where specifically authorized, the DRB may waive or modify the development standards of Article 3 and Article 4 of these regulations, except that no waivers shall be granted within the Flood Hazard Overlay District. The DRB may waive or modify dimensional standards in Article 2 of these regulations as set forth in Table 7-A. It shall be the responsibility of the applicant to provide sufficient information to allow the DRB to justify the waiver. In granting waivers, the DRB may require such conditions that will, in its judgment, substantially meet the intent and purpose of these regulations. In determining whether to grant a waiver, the DRB shall find that the proposed deviation from these regulations would:

(a) Be beneficial or necessary for the continued reasonable use of the property.

(b) Improve the property and area.

(c) Not adversely affect the character of the area.

(d) Not impair the appropriate use or development of adjacent property.

(e) Not be detrimental to the public health, safety or welfare.

(f) Not have the effect of nullifying the intent and purpose of applicable provisions of these regulations, the Rupert Town Plan and/or other municipal bylaws and ordinances in effect.

(2) Application Requirements. Waiver requests shall be submitted in writing and include all of the following:

(a) The name and address of the applicant;

(b) A brief description of the property and project with respect to which the waiver is being sought;

(c) A reference to the applicable provisions of these regulations; and

(d) The relief being requested.

(3) Notice and Hearing. The DRB shall hold a public hearing on a waiver request within 60 days of its filing. The hearing shall be warned as per Section 7.13(B) of these regulations.

(4) Decision. The DRB shall issue a written decision, with findings of fact, within 45 days after closing the hearing in accordance with Section 7.15 of these regulations.

Table 7-A: Waiver of Dimensional Standards

Dimensional Standard	% Modification DRB May Allow
Minimum rear and side setbacks	50%
Minimum front setback	30%
Maximum front setback	10%
Maximum building footprint	10%
Maximum lot coverage	5%

(C) Waiver of Application Requirements. The DRB may waive or modify application requirements upon written request from the applicant. It shall be the responsibility of the applicant to provide sufficient information to allow the DRB to justify the waiver. In granting waivers, the DRB may require such conditions that will, in its judgment, substantially meet the objectives of any requirements waived. In determining whether to grant a waiver, the DRB shall find that:

(a) The requirement is not requisite in the interest of public health, safety, and general welfare;

(b) The requirement is not applicable given the specific characteristics of the proposed development and/or property; and

(c) Granting a waiver will not have the effect of nullifying the intent and purpose of applicable provisions of these regulations, the Rupert Town Plan and/or other municipal bylaws and ordinances in effect.

Section 7.8. Conditional Use Review

(A) Application Requirements. The following materials shall be submitted with an application for conditional use review or site plan amendment unless waived as per Paragraph (C) of this section:

(1) Names and addresses of the property owners, applicant and owners of adjoining and facing properties.

(2) Project description (not to exceed one page).

(3) Site location map showing project location in relation to public roads, and adjoining and facing properties.

(4) Site plan, drawn to scale to include all elements specified on Table 7-B. The applicant may request an informal meeting with the DRB to seek a waiver of any elements listed in Table 7-B. Table 7-C identifies potential sources of the requested information.

(B) Application Process. An applicant for conditional use review shall submit an application, 1 original and 8 complete copies of the site plan (plan copies may be reduced to 11" x 17") and any applicable fees to the ZA for consideration at the next available regularly scheduled meeting of the DRB. Applicants are encouraged to schedule an informal meeting with the DRB before submitting an application for review.

(C) Waiver of Application Materials. The application shall not be considered complete until the applicant submits all of the application materials listed in Table 7-B. The DRB may waive one or more of the listed items, in accordance with Section 7.07(C) of these regulations if it determines the item(s) to be unnecessary for the comprehensive review of the application.

(D) Notice and Hearing. The DRB shall hold a public hearing on an application for conditional use approval within 60 days of its filing. The hearing shall be warned as per Section 7.13(B) of these regulations.

(E) Review and Decision. The DRB shall review an application for conditional use approval and any amendments to an approved site plan based on all applicable provisions of Article 3, Article 4 and Article 5 of these regulations. The DRB may place conditions as deemed necessary to achieve the purposes of these regulations and the goals of the Rupert Town Plan. The DRB shall issue a written decision, with findings of fact, within 45 days after closing the hearing in accordance with Section 7.15 of these regulations.

Table 7-B: Application Requirements					
	Conditional Uses	Subdivisions & PUDs			
	Site Plan	Context Map	Existing Resources Map	Conceptual Preliminary Plan	Engineered Final Plan
Informational					
Preparer information & certifications	✓	✓	✓	✓	✓
Scale, north arrow & legend	✓	✓	✓	✓	✓
Title block (date, title, page number, etc.) & data sources	✓	✓	✓	✓	✓
Legal & Regulatory					
Existing lot lines, easements, rights-of-way and dimensions	✓	✓	✓		
Proposed lot lines, easements, rights-of-way and dimensions				✓	✓
Adjoining land uses	✓	✓			
Zoning district boundaries	✓	✓	✓		
Existing public, common or conserved land	✓	✓	✓		
Proposed public, common or conserved land	✓			✓	✓
Natural and Cultural Resources					
Existing elevations (contour lines)	10 ft	10 ft	10 ft		
Proposed elevations (contour lines)	2 ft			10 ft	2 ft
Moderate and steep slopes & ridgelines	✓	✓	✓		
Geologic formations (rock outcroppings, ledge, cliffs, etc.)	✓	✓	✓		
Existing natural drainage (swales, ditches, etc.)	✓	✓	✓		
Surface waters (streams, ponds, etc.) & required buffers	✓	✓	✓	✓	✓
Source water protection areas	✓	✓	✓	✓	✓
Flood hazard and river corridor areas	✓	✓	✓	✓	✓
Wetlands & required buffers	✓	✓	✓	✓	✓
Primary agricultural soils	✓	✓	✓		
Woodland canopy lines	✓	✓	✓	✓	✓
Critical wildlife habitat and travel corridors	✓	✓	✓		
Archaeological, historic and/or cultural resources	✓	✓	✓		
Built Environment					
Existing roads, paths, sidewalks, parking, service areas, & ROWs	✓	✓	✓		
Proposed roads, paths, sidewalks, parking, service areas, & ROWs	✓			✓	✓
Existing structures (buildings, fences, signs, etc.) & dev. envelopes	✓	✓	✓		
Proposed structures (buildings, fences, signs, etc.) & dev. envelopes	✓			✓	✓
Existing utilities, water, wastewater & stormwater systems & ROWs	✓	✓	✓		
Proposed utilities, water, wastewater & stormwater systems & ROWs	✓			✓	✓
Existing landscaping, screening, lighting and signs	✓	✓	✓		
Proposed landscaping, screening, lighting and signs	✓			✓	✓

Table 7-B: Application Requirements
Additional Information. The DRB may request additional information as it deems necessary, which may include but shall not be limited to:
Information pertaining to any conservation areas on the site, critical wildlife habitat, important agricultural or forest soils, historic features or structures, or archeological resources.
Architectural elevations of proposed structures and samples of finish materials and/or colors.
Legal documents such as easements, homeowner's associations or maintenance agreements.
Construction staging plan and schedule, including the sequence and timing of proposed site development and related improvements.
Landscaping and /or lighting plans.
Stormwater management and/or erosion control plan.
Traffic impact, fiscal impact, environmental impact and/or visual impact analyses.

Table 7-C: Data Sources	
Legal & Regulatory	
Existing lot lines, easements, rights- of-way and dimensions	Paper tax maps, property surveys and subdivision plats available for review at the Town Office. GIS parcel file available from Bennington County Regional Planning Commission but may not be current.
Adjoining land uses and landowners	Tax maps and grand list information available for review at the Town Office.
Zoning district boundaries	Small-scale, unofficial map attached to these regulations. Large-scale Official Zoning map available for review at the Town Office. Paper Flood Insurance and River Corridor Maps available for review at the Town Office. GIS zoning district and overlay files available from Bennington County Regional Planning Commission.
Existing public, common or conserved land	Tax maps, property surveys, subdivision plats and grand list information are available for review at the Town Office. More information on conserved land may be available from the Vermont Land Trust.
Natural and Cultural Resources	
Elevation	Level of detail required is related to scale of the area being shown and the amount of slope on the property. USGS quad or topo maps provide 50-foot contour lines. These maps are available in paper and digital format from USGS and the Vermont Center for Geographic Information. This data can be used to give a general indication of the terrain (flat, hilly, mountainous, etc.) and determine areas that are likely to have steep slopes. Where more detail and accuracy is needed, like in the immediate area being developed, the assistance of a surveyor will be needed. While Table 7-B requires that 10-ft and 2-ft contours, the DRB will work with applicants to determine the appropriate level of elevation data needed given the specific characteristics of the property and development proposal.
Moderate and steep slopes & ridgelines, geologic formations, existing natural drainage	A general indication of any such features on the subject property can be noted on the submitted plan. If development is proposed in proximity to, or that may affect, such features, the DRB may request information and mapping that is more detailed.
Surface waters, source water protection areas, flood hazard and river corridor areas, and wetlands	Information related to all these features is available from the Vermont Agency of Natural Resources. ANR has a web-based mapping system that can be used to identify what features are likely present in or near the subject property. Most of this data is also available in GIS format from the Vermont Center for Geographic Information. The Rupert Town Office also has a number of paper maps on file, including those in the Town Plan, that give a general indication of whether there are any such features on the subject property.
Primary agricultural soils	Soil information is available from USDA, which also has a web-based mapping system that can be used to identify soil types and characteristics in and around the subject property. Soil data is also available in GIS format from the Vermont Center for Geographic Information. The Rupert Town Office may have paper maps on file, including those in the Town Plan, that give a general indication of whether there are primary agricultural soils on the subject property.
Woodland canopy lines	The most recent aerial photography can be used to estimate the edge of wooded areas. Some photos are available online (i.e., Google Map satellite imagery). Some aerial photography is also on file in the Town Office.
Critical wildlife habitat and travel corridors	Information related to these features may be available from the Vermont Agency of Natural Resources. ANR has a web-based mapping system that can be used to identify what features are likely present in or near the subject property. Some data is also available in GIS format from the Vermont Center for Geographic Information. Of particular interest in this category would be whether there are any Natural Heritage Sites (rare, threatened, endangered species) on the property. The Rupert Town Office may have paper maps on file, including those in the Town Plan, that give a general indication of whether there are any such resources on the subject property.

Table 7-C: Data Sources	
Archaeological, historic and/or cultural resources	The Vermont Division of Historic Preservation has information about these resources. They have an inventory of historic structures, which may be available for review at the Town Office or from the town's Historical Society. While fewer archaeological sites are known, there are types of places (i.e., along streams) that are known to be more likely places for such resources to be found.
Built Environment	
Roads, paths, sidewalks, parking, service areas, ROWs, structures, development envelopes, utilities, water, wastewater & stormwater systems, landscaping, screening, lighting and signs	Paper tax maps, property surveys, subdivision plats and aerial photographs can be used to collect information about existing built features on and around the subject property. These will need to be supplemented with drawings of proposed development.

Section 7.9. Subdivision Review

(A) Applicability. Except as specifically exempted under Paragraph (B) of this section, subdivision approval by the DRB is required prior to undertaking:

(1) The issuance of any permit for any land development involving land to be subdivided; or

(2) The filing of a subdivision plat with the Town Clerk.

(B) Exemptions. The following are specifically exempted from subdivision review under this section:

(1) The conveyance of rights-of way or easements that do not result in the subdivision of land.

(2) Boundary adjustments and two-lot subdivisions approved administratively under Section 3.04 of these regulations.

(C) Pre-Application Meeting. Applicants may schedule a pre-application meeting with the DRB to discuss the subdivision design and review process. The applicant may request a waiver of application requirements as per Section 7.07(C) required for Step One of the subdivision design and review process at this stage in the process.

(D) Subdivision Design and Review Process. Except as specifically exempted under Paragraph (B) of this section, all subdivisions shall be designed and reviewed as follows:

(1) Step One Context and Site Analysis.

(a) Context Map. The applicant shall prepare and submit a Context Map showing all elements required as per Table 7-B at a scale of 1 inch = 400 feet and including all land within mile of the parcel to be subdivided. The Context Map may consist of multiple sheets if necessary to clearly show multiple data layers, but the entire area should be shown on each sheet. The purpose of the Context Map is to acquaint the applicant/property owner, DRB and other interested persons with the resources and development patterns near the development site at an early stage in the process.

(b) Existing Resources Plan. The applicant shall prepare and submit an Existing Resources Plan showing the features and resources on the parcel to be subdivided as per Table 7-B at a scale of not more than 1 inch = 200 feet. The Existing Resources Plan may consist of multiple sheets if necessary to clearly show multiple data layers, but the entire area should be shown on each sheet. The purpose of the Existing Resources Plan is to provide the applicant/property owner, DRB and other interested persons with virtually everything they need to know about the property in terms of its noteworthy natural and cultural features. Supplementing the Existing Resources Plan with photographs of the property is encouraged.

(c) Qualified Professionals and Data Sources. The applicant is encouraged to work with one or more qualified professionals such as a landscape architect, planner with natural resources expertise, forester, conservation biologist, etc. in developing the materials needed for Step One through Step Three of the subdivision design and review process. The use of existing GIS information or handheld GPS units to document the location of site features is encouraged; no surveying or engineering will be required until Step Four of the process.

(d) Submission of Materials. The applicant shall submit 8 copies of the Context Map and Existing Resources Plan to the ZA, along with 8 copies of the town's subdivision application. Within 30 days of receipt of the required materials and applicable fees, the ZA shall work with the applicant and DRB to schedule Step Two of the subdivision process.

(2) Step Two Site Walk and Informational Meeting.

(a) Site Walk. Because it is impossible to completely understand a site only by examining a two- dimensional paper document inside a meeting room, the DRB should walk the property with the Context Map and Existing Resources Plan to gather firsthand knowledge of the site.

(b) Informational Hearing. The DRB shall hold an informational hearing with the applicant to be noticed as per Section 7.13(B) of these regulations to discuss the potential subdivision. This hearing should provide an opportunity for review of the Context Map, Existing Resources Plan and Site Walk, as well as the applicable provisions of these regulations. It should also allow for communication between all parties before significant time and money has been spent on the subdivision plan with the goal of reducing the potential of future conflicts and the need for multiple revisions to the proposed plan. The applicant may request a waiver of application requirements as per Section 7.07(C) required for Step Three at this stage of the process.

(c) Action by the DRB. Within 45 days of the date of adjournment of the public hearing, the DRB shall issue in writing:

(i) The granting or denial of any waiver requests;

(ii) A preliminary determination of whether or not the subdivision plan envisioned by the applicant generally conforms to applicable development review standards under Article 5 and Article 6, or would be in conflict with the Rupert Town Plan and other municipal regulations currently in effect; and

(iii) Any recommendations for proposed changes in subsequent submissions and any requests for additional studies or supporting documentation.

(3) Step Three Preliminary Design. In Step Three, the overall concept for the subdivision should be outlined, showing areas of proposed development and areas of proposed conservation or open/public space.

(a) Design Process. Applicants are strongly encouraged to use the following process when designing their subdivisions:

(i) Determine location of open space.

(ii) Select house locations.

(iii) Align streets and trails to connect the homes.

(iv) Draw lot lines and/or development envelopes.

(b) Conceptual Preliminary Plan. The Conceptual Preliminary Plan should be drawn to scale so that it can be laid on top of the Existing Resources Plan to illustrate the relationship between the proposed layout and the natural and cultural resources existing on the site. Elements to be included on the Conceptual Preliminary Plan are listed in Table 7-B.

(c) Submission of Materials. Not more than 12 months from the date the informational hearing was closed, the applicant shall submit 8 copies of the Conceptual Preliminary Plan (one of which shall be drawn on a translucent or transparent overlay sheet) and any supporting materials, along with any associated fees, to the ZA. Within 30 days of the receipt of all required materials, a DRB hearing shall be scheduled and warned as per Section 7.13(B).

(d) Preliminary Design Hearing. The DRB shall hold a public hearing on the preliminary design as presented in the Conceptual Preliminary Plan. The applicant may request a waiver of application requirements as per Section 7.07(C) required for Step Four at this stage of the process.

(e) Action by the DRB. Within 45 days of the date of adjournment of the public hearing, the DRB shall issue in writing:

(i) The granting or denial of any waiver requests;

(ii) A determination of whether or not the preliminary design as presented in the Conceptual Preliminary Plan conforms to applicable development review standards under Articles 5 and 6, or would be in conflict with the Rupert Town Plan and other municipal regulations in effect; and

(iii) Any recommendations for proposed changes in subsequent submissions and any requests for additional studies or supporting documentation.

(4) Step Four Final Design.

(a) Engineered Master Plan. Elements to be included on the Engineered Final Plan are listed in Table 7-B.

(b) Submission of Materials. Not more than 12 months from date the preliminary design hearing was closed, the applicant shall submit 8 copies of the Engineered Final Plan and any supporting materials, along with any associated fees, to the ZA. Within 30 days of the receipt of all required materials, a DRB hearing shall be scheduled and warned as per Section 7.13(A).

(c) Final Design Hearing. The DRB shall hold a public hearing on the final design as presented in the Engineered Final Plan.

(d) Action by the DRB. Within 45 days of the date of adjournment of the public hearing, the DRB shall act to approve, approve with conditions, or deny the final plan, based on a determination of whether or not the plan and associated plat conform to the development and subdivision review standards under Articles 5 and 6 of these regulations, or would be in conflict with the Rupert Town Plan and other municipal regulations in effect. Approval, conditions of approval, or grounds for denial shall be set forth in a written notice of decision issued in accordance with Section 7.15.

(E) Effect of Final Plan Approval. The approval by the DRB of a final subdivision plan and associated plat shall not be construed to constitute acceptance of any legal interest by the town of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard, in accordance with state statute. Approval for a final subdivision plan may contain a time limit within which all improvements necessary for the subsequent development of the subdivided lots (e.g., roads, utilities) shall be completed, not to exceed 3 years unless otherwise required or extended by the DRB.

(F) Plat Recording Requirements. Within 180 days of the date of receipt of final plan approval, the applicant shall file 3 copies of the final subdivision plat, including one mylar copy and 2 paper copies, for recording with the town in conformance with the requirements of 27 V.S.A., Chapter17. Approval of subdivision plats not filed and recorded within this 180-day period shall expire. The ZA may, however, grant one 90-day extension for plat filing in the event the applicant documents that other required local and/or state permits are still pending.

(G) Amendments to an Approved Plat. No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the DRB and the DRB approves such revisions after public hearing noticed as per Section 7.13(B) of these regulations. In the event that such subdivision plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void.

Section 7.10. PUD Review

(A) Application Requirements. Applications for PUD review shall be submitted in conjunction with a subdivision application.

(B) Coordination with Other Review Processes.

(1) A PUD application shall be reviewed simultaneously with the subdivision application.

(2) Approval for a PUD that involves the development of one or more conditional uses shall not exempt the project from conditional use review. The applicant may request that the conditional use or any other applicable review be done concurrently with the PUD review.

(C) Application Process. The PUD review shall follow the procedures applicable to subdivisions as specified in Section 7.09 of these regulations. A potential applicant may request an informal meeting with the DRB before submitting an application for review.

(D) Review and Decision. The DRB shall review and issue a decision on an application for a PUD in accordance with all applicable provisions of this article. At the time of PUD approval, the DRB shall include in its written decision a clear indication of all approved modifications of the district(s) development standards. The DRB may approve PUDs with conditions related to the location, scale, density, intensity and/or overall design of future development within the PUD.

Section 7.11. Combined Review

(A) In cases where a proposed project will require more than one type of development review, the DRB may warn and hold a single hearing for the purpose of reviewing and acting on the project. The ZA shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review. [See 24 VSA § 4462]

(B) Notice for a combined review hearing shall be made in accordance with Section 7.13 of these regulations. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.

(C) All hearing and decision requirements, and all deadlines applicable to each review process shall apply. The DRB may issue separate written decisions for each review conducted as part of the combined review, but they should be coordinated where appropriate.

Section 7.12. Interested Person

(A) For the purposes of these regulations, an interested person shall be defined as: [See 24 VSA § 4465(b)]

(1) The owner of property that is the subject of any decision made under these regulations;

(2) The town or any adjoining municipality;

(3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision made under these regulations, who can demonstrate a physical or environmental impact on their interest under the criteria reviewed, and who alleges that the decision, if confirmed, will not be in accord with the town plan or the regulations of the town;

(4) Any 10 people who may be any combination of voters or real property owners within the town who, by signed petition to the DRB, allege that any relief requested by a person under these regulations, if granted, will not be in accord with the town plan or the regulations of the town. This petition shall designate one person to serve as the representative of the petitioners regarding all matters related to the appeal; or

(5) Any department and administrative subdivision of this state owning property or any interest in property within the town, and the Vermont Agency of Commerce and Community Development.

Section 7.13. Public Notice

(A) A public hearing, warned as described below, shall be required for all requests for conditional use approval, variances, appeals of ZA's decisions and actions, and final subdivision plan approvals. [See 24 VSA § 4464(a)(1)]

(1) The date, place and purpose of the hearing shall be published in a newspaper of general circulation in the town not less than 15 days before the date of the public hearing.

(2) The date, place and purpose of the hearing shall be posted in 3 or more public places within the town not less than 15 days before the date of the public hearing. One of the public posting places shall be on the property within view of the nearest public right-of-way. The town shall provide the property owner with a form for posting. It is the responsibility of the property owner to ensure that the notice remains posted for the entire warning period.

(3) Written notification to the property owner (if not the applicant or appellant) and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The town may supply applicants or appellants with notification forms and require they be sent by certified mail return receipt requested or hand delivered with proof of delivery submitted before or at the start of the hearing.

(B) A public hearing, warned as described below, shall be required for all other types of development review including requests for waivers, preliminary subdivision plan review, approval of subdivision amendments. [See 24 VSA § 4464(a)(2)]

(1) The date, place and purpose of the hearing shall be posted in 3 or more public places within the town not less than 7 days before the date of the public hearing.

(2) Written notification to the property owner (if not the applicant or appellant) and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The town may supply applicants or appellants with notification forms and require they be sent by certified mail return receipt requested or hand delivered with proof of delivery submitted before or at the start of the hearing.

(C) No defect in the form or substance of the public notice requirements shall invalidate any act or decision of the DRB when a reasonable effort has been made to provide adequate posting and notice. [See 24 VSA § 4464(a)(5)]

(D) The DRB may recess a hearing on any application pending submission of additional information. Hearings that are recessed to a known date and time do not require further warnings when resumed.

Section 7.14. Advisory Commissions and Independent Technical Review

(A) The town may establish one or more advisory commissions, which may review applications and offer recommendations to the DRB upon request. [See 24 VSA §§ 4433, 4464(d)]

(B) The Selectboard may establish procedures and standards for requiring an applicant to pay the reasonable costs of an independent technical review of an application. In accordance with such procedures and standards, the DRB may hire qualified professionals to assist in the review of applications as it deems necessary. [See 24 VSA § 4440]

(C) The Selectboard may establish procedures and standards for requiring an applicant to pay the reasonable costs of ongoing monitoring and inspection of development. The DRB may condition approval upon such monitoring and inspection, as it deems necessary.

Section 7.15. Decisions

(A) Once the DRB adjourns a hearing, it shall issue a written decision, including a statement of the facts upon which it has based its decision, within 45 days. Failure to act within 45 days shall be deemed approval. [See 24 VSA § 4464(b)(1)]

(B) As specified in the DRB's Rules of Procedure after closing a hearing (but not necessarily immediately following it), the DRB shall go into deliberative session, which may be closed to the public, to review evidence received at the hearing and make a decision.

(C) In rendering a decision in favor of the applicant, the DRB may attach reasonable conditions and safeguards as it deems necessary to implement the provisions of these regulations and the policies of the town plan. Issuance of zoning permits for further development may be conditioned upon satisfactory installation of required public improvements, including streets and infrastructure. [24 VSA §§ 4464(b)(2) and (4)]

(D) The decision shall be sent by certified mail to the applicant or appellant. Copies of the decision shall also be sent to every person, body or group who participated in the hearing. A copy of the decision or memorandum of municipal action shall also be filed with the ZA and with the Town Clerk for recording. [24 VSA § 4464(b)(3)]

Section 7.16. Performance Bond

(A) The DRB may condition approval upon the submission of a bond, escrow account, letter of credit or other surety in a form acceptable to the Selectboard to assure one or more of the following: [See 24 VSA §§ 4464(b)(2) and (4)]

(1) The completion of the project;

(2) Adequate stabilization of the site; or

(3) Protection of public facilities that may be affected by the project.

(B) The surety should be in an amount sufficient to cover the full cost of completing the required public improvements and their maintenance for a period of 2 years after completion as estimated by the town. The surety may run for a term of up to 3 years as established by the DRB. With the consent of the owner, the term of the surety may be extended for an additional 3-year term.

(C) If the required improvements have not been installed or maintained as provided within the term of the surety, the surety shall be forfeited to the town and the town shall install or maintain the improvements.

Section 7.17. Phasing and Impact Fees

(A) Upon adoption of a capital budget and program, development may be phased or limited to avoid or mitigate any undue adverse impact on existing or planned community facilities or services. Phasing shall be based on the timing of construction or implementation of related necessary public facilities and services. [See 24 VSA § 4422]

(B) Upon adoption of a capital budget and program, the town may levy impact fees in accordance with 24 VSA Chapter 131.

Section 7.18. Recording and Legal Requirements

(A) Open Space Preservation. The following shall apply to lands designated as undevelopable open space:

(1) Open space preservation shall be irrevocable unless otherwise approved by the DRB.

(2) A metes and bounds description of the area(s) to be preserved and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government.

(3) Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pasture, land, crop cultivation), forestry or recreation uses that preserve rural character and any scenic resources visible from public vantage points.

(B) Homeowners Associations. Formation of a homeowner's association or similar legal arrangement shall be required as a condition of approval for development that includes private roads, common open space and/or common buildings, infrastructure or facilities to ensure their ongoing maintenance. The obligations of maintenance of common improvements shall be clearly outlined in the deeds to all affected owners. Specifically, each deed shall have a clause stating the town shall not be responsible for maintenance or improvements of private roads or common land or infrastructure. Costs incurred by the town because of default on the part of the association or an owner shall be a lien on the property of the association or owner(s). The following minimum standards shall apply to associations:

(1) Creation of the association before any lots or units are sold.

(2) Mandatory membership by the original property owner and any subsequent owners.

(3) Restrictions on the use and development of common space, buildings, facilities, roads and infrastructure.

(4) Powers to assess and collect from each member a fair share of the associated costs.

(5) Responsibility for providing adequate maintenance of common space, buildings, facilities, roads and infrastructure.

(6) Approval of articles of incorporation, bylaws, convents and deed restrictions by the town's attorney.

Section 7.19. Violations, Enforcement and Penalties

(A) These regulations shall be considered a civil ordinance within the meaning of 24 VSA Chapter 59.

(B) The Selectboard shall establish fines for violations of these regulations in accordance with the Act.

(C) The commencement or continuation of any development or use that is not in conformance with the provisions of these regulations shall constitute a violation. Within the Flood Hazard Overlay (FHO) District, violations of Required Agricultural Practices shall be enforced as a violation of these regulations. Each day that a violation continues shall constitute a separate offense. The ZA shall undertake appropriate action, following the procedures outlined below, to enforce the provisions of these regulations. [See 24 VSA § 4451]

(D) The ZA shall investigate all complaints regarding violations of these regulations. The ZA shall commence the procedures below upon determining that a violation has occurred. Decisions or actions of the ZA in relation to violations may be appealed as per Section 7.06(A) of these regulations. [See 24 VSA § 4452]

(E) Informal Resolution. Upon determination that there has been a violation of these regulations, the ZA may first attempt to contact the property owner by phone or in person to informally resolve the violation. If such contact cannot be made or the matter is not resolved to the ZA's satisfaction within 15 days, the ZA shall issue a formal notice of violation.

(F) Notice of Violation. The ZA shall send the property owner a written notice of violation by certified mail. If the violation is occurring on property within the FHO, the ZA shall also send a copy of the notice to the state National Flood Insurance Program Coordinator and if related to Required Agricultural Practices, to the Secretary of the Vermont Agency of Agriculture. The notice shall: [See 24 VSA § 4451]

(1) Describe the violation and include a reference to the specific provisions of these regulations under which the property is in violation.

(2) Explain that the property owner has an opportunity to cure the violation within 15 days.

(3) List the amount of the fine(s) for the violation, as set by the Selectboard, and explain that the fine(s) will be imposed for each day the violation continues after the 15-day period for curing the violation elapses.

(4) Notify the property owner that action may be brought without notice and the opportunity to cure if the violation is repeated within the succeeding 12 months.

(G) Legal Action. If the violation is not cured within 7 days after the notice of violation was received, the ZA shall consult with the Selectboard to determine how the town will proceed. The ZA may negotiate a resolution to violations after the opportunity for cure has elapsed. The Selectboard shall approve such resolutions. If violations remains unresolved after the opportunity to cure or appeal elapses, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting denial of flood insurance for the property.

(H) Recording. The ZA shall submit all notices of violation to the Town Clerk for recording.

(I) Limitations on Enforcement. [See 24 VSA § 4454]

(1) Enforcement of the provisions of these regulations or of a failure to comply with the provisions of any land use permit shall be instituted within 15 years from the date the violation first occurred.

(2) No proceeding shall be instituted to enforce a violation of a land use permit issued after July 1, 1998 unless the permit was recorded in the town's land records.

Article 8. Definitions

Section 8.1. Interpretation

(A) When used in these regulations, the words 'shall', 'must' and 'will' are mandatory; the words 'may', 'should' and 'can' are advisory.

(B) If not specifically defined, all words used in these regulations shall be interpreted to have their usual and customary meanings.

Section 8.2. Terms

(A)

(1) REQUIRED AGRICULTURAL AND SILVICULTURAL PRACTICES. Farming and forestry practices as defined by the Vermont secretary of agriculture or the commissioner of forests, parks and recreation under 10 VSA §§ 1021(f) and 1259(f), and 6 VSA § 4810.

(2) ACCESSORY DWELLING UNIT (ADU). A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot. [See Section 4.01(A) of these regulations.]

(3) ACCESSORY STRUCTURE OR USE. A structure or use that is subordinate in size or purpose to the principal structure or use of the same lot and that serves a purpose customarily incidental to the principal structure or use.

(4) AFFORDABLE HOUSING. [24 VSA § 4303(1)]

(a) Housing that is owned by its inhabitants whose gross annual household income does not exceed 80% of the county median income, or 80% of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30% of the household's gross annual income.

(b) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80% of the county median income, or 80% of the standard metropolitan statistical area income if the municipality is located in such an area, 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.

(5) AGRICULTURE. See FARMING.

(6) AGRI-TOURISM. Visiting a working farm or any agricultural, horticultural or agribusiness operation for the purpose of leisure travel, enjoyment, recreation, education, or active involvement in the activities of the farm or operation.

(7) ANIMAL SERVICES & AGRICULTURAL-SUPPORT BUSINESSES. A commercial use that provides goods or services that support agricultural operations or the ownership and care of farm or domesticated animals such as kennels, veterinary offices, stables, animal sales or slaughterhouses. This definition specifically excludes the sale, repair or service of farm or garden machinery or equipment.

(8) ANTENNA. Any structure designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication, or other signals from other antennas, satellites, or other services.

(9) APPLICANT. A property owner or any person or entity acting as an agent for the owner in an application for a development proposal, permit, or approval.

(10) ARTIST/CRAFTSPERSON WORK OR SALES FACILITY: An establishment for the creation, preparation, assembly, display and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, cabinetry, leather craft, hand-woven articles, woodcrafts and other related items.

(11) ASSISTED LIVING: Residences for the elderly or disabled that provide rooms, meals, personal care and supervision of self-administered medication. They may provide other services such as recreational activities, financial services and transportation.

(12) ATTIC. A space immediately below the roof of a building in which the possible floor area with headroom of 5 feet or less occupies at least 40% of the total floor area of the attic. An attic shall not be considered a story for the purposes of determining building height.

(B)

(1) BASEMENT. That portion of a building below the first or ground-floor level and having less than 4 feet of clearance from its ceiling to the average finished grade of the building perimeter. A basement shall not be considered a story for the purposes of determining building height.

(2) BED AND BREAKFAST (B&B). A place of lodging that:

(a) Is located in an owner-occupied, single-family dwelling and/or structure(s) accessory to the dwelling;

(b) Provides 10 or fewer rooms for rent;

(c) Is occupied by the owner at the time of rental; and

(d) In which the only meal served to guests is breakfast and no meals are served to the general public.

(3) BOARDING HOUSE. A single-family dwelling where rooms are rented are meals may be provided to non-transient lodgers. There is one common kitchen facility and meals are not served to the general public.

(4) BOUNDARY ADJUSTMENT. The adjustment of a lot line of a lot by the relocation of a common boundary where an additional lot is not created and where an existing parcel is not reduced below the minimum dimensional requirements established in these regulations.

(5) BUILDING. A portable or fixed structure having a roof supported by columns or walls for the shelter, support, or enclosure of people, animals, or property. When separated by division walls from the ground up without openings, each portion of such structure shall be deemed a separate building, except that a duplex shall be considered one building.

(6) BUILDING, PRINCIPAL. A building in which is conducted primary use of the lot on which the building is located.

(7) BUILDING FOOTPRINT. The total floor area of the largest story of a building as measured from the exterior surface of the exterior walls of all enclosed space, including attached accessory buildings and additions but excluding unroofed areas like decks and patios.

(8) BUILDING FRONTLINE. A line formed by the exterior front wall of a building from which the setback for any accessory buildings may be measured.

(9) BUNKHOUSE. Housing for seasonal farm employees that is not occupied on a year-round basis.

(C)

(1) CAMPGROUND. A lot in single ownership that is intended to be developed for occupancy by tents and all types of recreational vehicles for transient dwelling purposes.

(2) CEMETERY. A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments a mausoleum for vault or crypt interments and/or a columbarium for cinerary interments.

(3) CHARACTER OF THE AREA. The image and perception of an area as defined by such factors 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 in keeping with the character of the area shall consider generation of noise, dust, and traffic, among other features and also the location, size, and design of structures as compared to what is typical in or planned for such an area.

(4) CHILDCARE HOME. A home occupation that provides daycare services for children in accordance with all applicable state laws. (See Section 4.02 of these regulations).

(5) CIVIC FACILITY. A building or site owned, operated or occupied by a governmental agency, or non-profit organization that provides governmental, administrative or community services to the public and/or members.

(6) COMMON OWNERSHIP. Ownership or control by any person or persons and includes affiliations of individuals or entities, or both, that are formed in order to derive profit, consideration or any other beneficial interest. [See Chapter 1 of the Environmental Protection Rules § 1-201(58)]

(7) COMMUNICATIONS FACILITY: A facility or establishment for the broadcasting, development, recording or editing of radio, television or similar media programming. This definition specifically excludes towers, antennas, or dishes associated with transmitting station signals.

(8) COMMUNITY-SERVING UTILITIES AND INFRASTRUCTURE. The use of land or structures for provision of public or community services such as energy distribution, potable water, wastewater treatment, stormwater management, telecommunications or transportation. This definition specifically excludes infrastructure serving a single residential structure, driveways, telecommunication antennas, telecommunication towers and energy generating facilities.

(9) COMPATABILITY. The characteristics of different uses or activities or designs which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean the same as. Rather, compatibility refers to the sensitivity of development proposals in maintaining or enhancing community character.

(10) CONSTRUCTION-RELATED FACILITY. A lot or portion of a lot used to store and maintain construction, landscaping or similar heavy equipment and other materials and facilities customarily required by a contractor in the building, landscaping, or related trades. Also known as a contractor's yard.

(11) CRITICAL WILDLIFE HABITAT. See WILDLIFE HABITAT, CRITICAL.

(12) CULTURAL FACILITY. An institution providing for the documentation, display, performance or enjoyment of heritage, culture, history, science or the arts such as a library, museum, interpretative site or performance venue, which operates as a public or non-profit entity.

(D)

(1) DAYCARE FACILITY. A facility providing care for children, the elderly or individuals with disabilities in a protective setting for a portion of a 24-hour day.

(2) DECK. A roofless outdoor platform that is elevated above grade level intended for indoor-outdoor living and recreation.

(3) DEVELOPMENT. See LAND DEVELOPMENT.

(4) DEVELOPMENT ENVELOPE. That area on a lot that encompasses all development including, but not limited to, excavation, fill, grading, storage, demolition, structures, decks, roof overhangs, porches, patios and terraces, pools, any areas of disturbance, access ways, and parking. Approved plantings of landscape materials on natural grade, approved on-site water and wastewater infrastructure, and approved walkways, driveways and roads may occur outside of a development envelope.

(5) DISH. See ANTENNA.

(6) DRIVE-THRU. An establishment or accessory use designed to provide either wholly or in part, services or products to customers while in their automobiles.

(7) DRIVEWAY. A minor private way providing vehicular access between a road and the parking space or garage of private or public property in accordance with Section 3.02 of these regulations.

(8) DUPLEX. See DWELLING, TWO FAMILY.

(9) DWELLING UNIT. A building or part of a building, containing independent living, sleeping, housekeeping, cooking and sanitary facilities intended for occupancy by one family or household.

(10) DWELLING UNIT, ACCESSORY (See "Accessory Dwelling Unit")

(11) DWELLING, EFFICIENCY. A dwelling unit consisting of not more than 1 habitable room, together with kitchen or kitchenette and sanitary facilities.

(12) DWELLING, MULTI-FAMILY. A building, or portion thereof, designed exclusively for occupancy by three or more families or households living independently of each other in individual dwelling units.

(13) DWELLING, SINGLE-FAMILY. A building, or portion thereof, designed exclusively for occupancy by one family or household living independently in an individual dwelling unit.

(14) DWELLING, SEASONAL. A small dwelling designed for temporary use that lacks one or more of the basic amenities or utilities required for all-year or all-weather occupancy. Also known as a camp or cabin.

(15) DWELLING, SINGLE-FAMILY ATTACHED. A single-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light and ventilation. Also known as a townhouse.

(16) DWELLING, SINGLE-FAMILY DETACHED: A building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.

(17) DWELLING, TWO-FAMILY. A building, or portion thereof, designed exclusively for occupancy by two families or households living independently of each other in individual dwelling units. Also known as a duplex.

(E)

(1) EASEMENT. A legal interest in land, generally established in a deed or on a recorded plat, granted by the owner to another person, which allows that person(s) the use of all or a portion of the owner's land, generally for a stated purpose including but not limited to access or placement of utilities or conservation of open space.

(2) EATING AND DRINKING ESTABLISHMENT: An establishment where food and/or beverages are prepared, served and consumed in accordance with state law such as restaurants, cafes, coffee shops, pubs, taverns or bars.

(3) EDUCATION FACILITY. An institution providing instruction and including accessory facilities traditionally associated with a program of study, which is operated under state licensing.

(4) EFFICIENCY. See DWELLING, EFFICIENCY.

(5) EXTRACTION. Excavating and removing rock, stone, ore, soil, gravel, sand, minerals and similar materials from the surface and/or subsurface in accordance with Section 4.04 of these regulations.

(F)

(1) FARM. A parcel of land that is primarily devoted to farming, upon which may be located farm structures, farm stands, farm-based businesses and/or dwellings occupied by people engaged in farming.

(2) FARM PRODUCT SALES. A structure or site for the sale of locally-produced farm products, including value-added products.

(3) FARM STAND. An open air, accessory structure for the sales of locally-produced farm products.

(4) FARM STRUCTURE. [See Section 2.06 of the Required Agricultural Practices Regulations] A structure or structures used by a person for agricultural production that is:

(a) Used in connection with the sale of $1,000 or more of agricultural products in a normal year; or

(b) Used in connection with the raising, feeding, and management of at least the following number of adult animals: 4 equines; 5 cattle or American bison; 15 swine; 15 goats; 15 sheep; 15 fallow deer; 15 red deer; 50 turkeys; 50 geese; 100 laying hens; 250 broilers, pheasant, Chukar partridge, or Coturnix quail; 3 camelids; 4 ratites (ostriches, rheas, and emus); 30 rabbits; 100 ducks; or 1,000 pounds of cultured trout; or

(c) Used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or

(d) On a farm with a business and farm management plan approved by the Secretary of Agriculture, Food and Markets.

(5) FARM-BASED BUSINESS. A business operated on a farm that produces and/or sells value-added farm products, that offers contractual agricultural services, that engages in agritourism, that generates energy from crops or by-products, that processes, stores and/or ships farm products, or that engages in similar agriculturally-oriented income-producing activities.

(6) FARM-WORKER HOUSING. Any living quarters, dwelling, boarding house, bunkhouse, or other housing accommodations, maintained exclusively for the occupancy of farm employees and their families in connection with any farm work or place where farm work is being performed.

(7) FARMING. [See 10 VSA § 6001(22)]

(a) The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or

(b) The raising, feeding, or management of livestock, poultry, fish, or bees; or

(c) The operation of greenhouses; or

(d) The production of maple syrup; or

(e) The on-site storage, preparation and sale of agricultural products principally produced on the farm; or

(f) The on-site production of fuel or power from agricultural products or wastes produced on the farm; or

(g) The raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

(8) FINANCIAL SERVICES FACILITY. Provision of financial and banking services to consumers or clients such as banks, savings and loans associations, credit unions, lending establishments and automatic teller machines.

(9) FOREST MANAGEMENT. The application of forestry principles and/or business methods to the operation of a forest property for the purpose of maintaining forest uses and/or producing a continuous supply of forest products.

(10) FOREST USES. Production of trees and the processing of forest products; open space; buffers from noise and visual separation of conflicting uses; watershed protection and wildlife and fisheries habitat; soil protection from wind and water; maintenance of clean air and water; outdoor recreational activity and related support services and wilderness values compatible with these uses; and grazing for livestock.

(11) FORESTRY. The growing and harvesting of trees or timber under proper forest management for purposes other than their fruit. For the purposes of these regulations, the term Forestry shall also include the use temporary processing equipment such as chippers and portable sawmills, which are used in association with harvesting operations.

(G)

(1) GARAGE. A structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

(2) GAS STATION. Any structure or area of land used for the retail sale of automobile fuels, oils, and accessories. Such an establishment may include as an accessory use:

(a) Retail sales of convenience items;

(b) A deli;

(c) Retail sales of propane, kerosene or similar fuels;

(d) Automotive repair or service; and/or

(e) A carwash.

(3) GROUP HOME: A single-family home operated under state licensing or registration, serving not more than 8 individuals who have a handicap or disability in accordance with Section 4.07 of these regulations.

(H)

(1) HABITABLE SPACE. Those areas within the exterior walls of a dwelling that have not less than 7 feet of headroom as measured vertically upward from the top of the finished floor, but excluding porches, basements, attics and areas in any accessory structure attached to a dwelling.

(2) HEALTHCARE FACILITY. Any facility maintained and operated to provide medical care in accordance with state law including, but not limited to hospitals, nursing homes, intermediate care facilities, clinics, home health agencies and private healthcare provider offices.

(3) HIGHWAY MAINTENANCE FACILITY. A municipal- or state-operated facility for the storage of highway maintenance vehicles, equipment and materials.

(4) HISTORIC STRUCTURE. Any contributing structure that is listed on the National Register of Historic Places or the Vermont Historic Sites and Structures Survey for the Town of Rupert or has been etermined by the Vermont Division for Historic Preservation to be eligible for listing on either the state survey or national register.

(5) HOME OCCUPATION. An occupation, profession, activity or use that:

(a) Is clearly a customary, secondary, and incidental use of a residential dwelling unit;

(b) Is carried on for gain by a resident of the dwelling;

(c) Does not alter the exterior of the property or affect the residential character of the neighborhood; and

(d) Complies with the requirements of Section 4.08(A) of these regulations.

(6) HOME-BASED BUSINESS. An accessory use of a dwelling, accessory building and/or residential property for a commercial or light industrial purpose that due to its greater intensity does not meet the definition of a home occupation but complies with the requirements of Section 4.08(B) of these regulations.

(7) HOMEOWNERS ASSOCIATION. A community association that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space, facilities or infrastructure.

(8) HOTEL OR MOTEL. A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests.

(9) HOUSEHOLD. The person or persons occupying a dwelling unit.

(10) HOUSEHOLD, LOW INCOME. A household with a gross household income that does not exceed 80% of the median gross household income for households of the same size within the county in which the housing is located as established by the U.S. Department of Housing and Urban Development.

(11) HOUSEHOLD, MODERATE INCOME. A household with a gross household income that is greater than 80% but does not exceed 100% of the median gross household income for households of the same size within the county in which the housing is located as established by the U.S. Department of Housing and Urban Development.

(I)

(1) IMPERVIOUS SURFACE. Any area constructed of materials that prevent, impede, or slow the infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation-bearing soils, including but not limited to building roofs, porches, decks and patios, parking and driveway areas, graveled areas, sidewalks and swimming pools.

(2) INN. A building or lot that contains a dwelling unit occupied by an owner or resident manager in which lodging rooms and meals are offered to the public for compensation.

(J)

(1) JUNK. Old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof. [See 24 VSA § 2241(5)]

(2) JUNK VEHICLE. A discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, or one other than an on-premises utility vehicle that is allowed to remain unregistered for a period of 90 days from the date of discovery. [See 24 VSA § 2241(6)]

(3) JUNKYARD. Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. Junkyard also means any place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping 4 or more junk motor vehicles that are visible from any portion of a public highway. However, the term does not include a private garbage dump or a sanitary landfill that is in compliance with 24 VSA § 2202 and the regulations of the secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs. [See 24 VSA § 2241(7)]

(K)

(1) KENNEL. An establishment in which domesticated animals are housed, groomed, bred, boarded, trained or sold for fee or compensation.

(L)

(1) LAND DEVELOPMENT. The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. [See 24 VSA § 4303(10)]

(2) LEVEL OF SERVICE (LOS) STANDARD, TRAFFIC. A scale that measures the amount of traffic that a roadway or intersection can accommodate, based on such factors as maneuverability, driver dissatisfaction, and delay.

(3) LODGING. A facility offering transient accommodations to the general public, which may include accessory facilities and services such as restaurants, meeting rooms, entertainment venues, personal services and recreational facilities.

(4) LOT. Any parcel of land with its boundaries separately described in a recorded deed or filed plat. Any public right-of-way, including streams and other water courses..

(5) LOT COVERAGE. Lot coverage means the ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage. Lot coverage includes only enclosed or covered areas of structures, which would include habitable and uninhabitable area and covered but not enclosed structures such as porches, carports, etc. Lot coverage does not include roof overhangs or impervious exterior surfaces such as driveways, patios, etc.

(6) LOT, CORNER. A lot abutting two or more intersecting roads.

(7) LOT DEPTH. The average horizontal distance between the front lot line and the rear lot line.

(8) LOT FRONTAGE. The uninterrupted linear or curvilinear extent of a lot measured along the road right-of-way from the intersection of one side lot line to the intersection of the other side lot line. If alot has frontage on from than one road, frontage on one road only shall be used to satisfy the minimum lot frontage.

(9) LOT, INTERIOR. A lot with no frontage on a state highway, town Class 1, 2 or 3 road, or private road.

(10) LOT WIDTH. The average horizontal distance between the side lot lines.

(M)

(1) MANUFACTURING FACILITY. An enclosed facility for the fabrication of raw materials or assembly of parts or materials fabricated offsite.

(2) MIXED-USE. A structure or development that is occupied by a nonresidential use and a residential use, or by a mix of non-residential uses such as office, manufacturing, retail, public, or entertainment uses.

(3) MIXED-USE DEVELOPMENT.. A single development site that includes at least one principal residential building and one principal nonresidential building, or one or more mixed-use buildings. The plan for the site must be unified and coordinated with the uses functionally integrated through shared pedestrian and vehicular access, parking and similar means.

(4) MOBILE HOME. A prefabricated dwelling unit built on a permanent chassis that: [See Chapter 1 of the Environmental Protection Rules § 1-201(39)]

(a) Is designed for long term and continuous residential occupancy;

(b) Is designed to be moved on wheels, as a whole or in sections;

(c) Is at least 8 feet wide and 40 feet long or is at least 320 square feet in area, or if the structure was manufactured prior to June 15, 1976, is at least 8 feet wide and 32 feet long; and

(d) On arrival at the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on supports or a permanent foundation, or installation as a unit in a previously prepared structure.

(5) MOBILE HOME PARK. Any lot of land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate, more than 2 mobile homes. Nothing herein shall be construed to apply to premises used solely for the storage or display of mobile homes. Mobile home park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to 4 mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. [See Chapter 1 of the Environmental Protection Rules § 1-201(40)]

(6) MOBILE HOME LOT. An area of land within a mobile home park designated for the placement of a single mobile home and the exclusive use of its occupants. [See Chapter 1 of the Environmental Protection Rules § 1-201(41)]

(7) MOTOR VEHICLE. Any vehicle propelled or drawn by power other than muscular power, including trailers. [See 24 VSA § 2241(10)]

(8) MULTI-FAMILY DWELLING. See DWELLING, MULTI-FAMILY.

(N)

(1) NATURE PRESERVE. Areas intended to remain in a predominately natural or undeveloped state to provide resource protection and possible opportunities for passive recreation and environmental education for present and future generations.

(2) NOISE. Any sound that is undesirable because it interferes with speech and hearing, or is intense enough to damage hearing, or is otherwise annoying.

(3) NONCONFORMING LOTS OR PARCELS. Lots or parcels that do not conform to the provisions these regulations covering dimensional requirements, but that were in conformance with all applicable laws, bylaws, ordinances, and regulations prior to the enactment of these regulations, including a lot or parcel improperly authorized as a result of error by the ZA. [See 24 VSA § 4303(13)]

(4) NONCONFORMING STRUCTURE. A structure or part of a structure that does not conform to these regulations, but that was in conformance with all applicable bylaws, laws, ordinances, and regulations prior to the enactment of these regulations, including a structure improperly authorized as a result of error by the ZA. [See 24 VSA § 4303(14)]

(5) NONCONFORMING USE. Use of land that does not conform to these regulations, but did conform to all applicable laws, bylaws, ordinances, and regulations prior to the enactment of these regulations, including a use improperly authorized as a result of error by the ZA. [See 24 VSA § 4303(15)]

(6) NONCONFORMITY. A nonconforming use, structure, lot, or parcel. [See 24 VSA § 4303(16)]

(7) NURSERY. The retail handling of any article, substance or commodity related to the planting, maintenance or harvesting of garden plants, shrubs, trees, packaged fertilizers, soils, chemicals, or other nursery goods and related products or small quantities to the consumer.

(O)

(1) OFFICE. A room, group of rooms or building used for conducting the affairs of a business, profession, service industry or government.

(2) OUTDOOR STORAGE. The storage of any material for a period greater than 72 hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

(P)

(1) PARCEL. A lot established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

(2) PARKING LOT OR STRUCTURE. An open area, other than the traveled portions of a road, or a multi-level or underground structure to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

(3) PATIO. A level, landscaped and/or surfaced area not covered by a permanent roof and not elevated above grade intended for indoor-outdoor living and recreation.

(4) PEDESTRIAN SCALE. The proportional relationship between the dimensions of a building or building element, street, outdoor space, or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian. Site and building design elements will be dimensionally smaller such as ornamental lighting no higher than 12 feet; bricks, pavers, or other paving modules with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the perception of the height of walls; and signs and signpost details designed for viewing from a short distance.

(5) PERSON. An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group. [See 24 VSA § 4303(17)]

(6) PERSONAL SERVICE FACILITY. A business that provides services of a personal nature including but not limited to: laundry, dry cleaning, beauty and barber shops, shoe repair and tailoring, funeral services, or photographic studios. This definition specifically excludes businesses run from the operator's dwelling.

(7) PLANNED UNIT DEVELOPMENT (PUD). One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of allowed land uses. This plan, as authorized, may deviate from the requirements of these that are otherwise applicable to the area in which it is located with respect to lot size, type of dwelling or building, density, intensity, lot coverage, parking, required common open space, or other standards. [See 24 VSA § 4303(19)]

(8) PLAT. A map or chart of a subdivision with surveyed lot lines and dimensions. [See 10 VSA § 6001(13)]

(9) PORCH. A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the space enclosed is heated or air conditioned, or when the percentage of window area to wall area is less than 50%.

(10) PRIMARY AGRICULTURAL SOILS. Soil map units with the best combination of physical and chemical characteristics that have a potential for growing food, feed, and forage crops, have sufficient moisture and drainage, plant nutrients or responsiveness to fertilizers, few limitations for cultivation or limitations which may be easily overcome, and an average slope that does not exceed 15%. Present uses may be cropland, pasture, regenerating forests, forestland, or other agricultural or silvicultural uses. However, the soils must be of a size and location, relative to adjoining land uses, so that those soils will be capable, following removal of any identified limitations, of supporting or contributing to an economic or commercial agricultural operation. Unless contradicted by the qualifications stated in this paragraph, primary agricultural soils shall include important farmland soils map units with a rating of prime, statewide, or local importance as defined by the Natural Resources Conservation Service of the United States Department of Agriculture. [See 10 VSA § 6001(15)]

(11) PRINCIPAL BUILDING. See BUILDING, PRINCIPAL.

(12) PRODUCTIVE FOREST SOILS. Those soils which are not primary agricultural soils but which have a reasonable potential for commercial forestry and which have not been developed. In order to qualify as productive forest soils, the land containing such soils shall be of a size and location, relative to adjoining land uses, natural condition, and ownership patterns so that those soils will be capable of supporting or contributing to a commercial forestry operation. Land use on those soils may include commercial timber harvesting and specialized forest uses, such as maple sugar or Christmas tree production. [See 10 VSA § 6001(8)]

(13) PUBLIC TRANSIT. Any vehicle or transportation system owned, operated or regulated by a governmental agency or quasi-governmental organization used for the mass transport of people.

(Q)

(R)

(1) RECREATION. The refreshment of body and mind through forms of play, amusement or relaxation.

(2) RECREATION AND ENTERTAINMENT, COMMERCIAL. Recreation and entertainment facilities operated for profit including but not limited to sports venues, gymnasiums, golf courses, clubs and theaters.

(3) RECREATION AND ENTERTAINMENT, NON-COMMERCIAL. Recreation and entertainment facilities owned or operated by a public or non-profit entity including but not limited to sports fields, parks, trails, playgrounds, recreation centers or clubs.

(4) RECREATIONAL VEHICLE. A term encompassing any type of vehicle used primarily for recreational pleasure. A recreational vehicle is not designed or intended for use as a permanent dwelling but may be used for temporary living quarters for recreational camping, travel, or seasonal use. This definition includes, but is not limited to, vehicles such as travel trailers, motor homes, boats, house boats, campers, snowmobiles, all-terrain vehicles, etc.

(5) RELIGIOUS FACILITY. A place of worship or religious assembly with related facilities such as a rectory, convent, meeting hall, administrative offices or cemetery.

(6) RENEWABLE ENERGY RESOURCES. Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources. [See 24 VSA § 4303(24)]

(7) RENTAL COTTAGES. Small, rustic dwellings designed for seasonal use or short-term occupancy, which are let by their owners for transient dwelling purposes.

(8) RESEARCH AND DEVELOPMENT FACILITY. A facility for investigation into the natural, physical or social sciences, which may include engineering and product development.

(9) RESIDENTIAL ENERGY GENERATING SYSTEM. Any facility or installation such as a wind turbine, hydroelectric unit or solar collecting or concentrating array, which is designed and intended to produce energy for residential or on-site use from natural forces such as wind, water, sunlight, geothermal heat or biomass.

(10) RESTAURANT. An establishment where food and drink are prepared, served and consumed, mostly within the principal building. A minimum of 60% of gross sales must be created by the sale of food.

(11) RETAIL STORE. An enclosed building housing an establishment offering a specified line of goods or services for retail sale direct to walk-in customers.

(12) RETREAT CENTER. A facility used for professional, educational, health, spiritual or religious conclaves, meetings, conferences, seminars, training or care that may provide meals, housing and recreation for participants during the period of the retreat or program. This definition specifically excludes offering meals or overnight accommodations to the public.

(13) RIDGELINE. A relatively narrow elevation that is prominent because of the angle at which it rises and that is seen as a distinct edge against a backdrop of land or sky.

(14) RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, power line and/or other public utilities or facilities.

(15) RIPARIAN BUFFER. A vegetated buffer strip along a watercourse that filters stormwater and provides wildlife habitat.

(16) RIVER CORRIDOR. The land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).

(17) ROAD. That portion of a right-of-way available for vehicular travel, including on-street parking lanes. This definition specifically excludes driveways.

(18) ROAD, PRIVATE. A road not owned or maintained by the state or town.

(19) ROAD, PUBLIC. A road owned or maintained by the state or town.

(20) RURAL CHARACTER. Sense of place created by a relatively undeveloped landscape that is primarily devoted to working agricultural and forest lands and/or open space.

(S)

(1) SAWMILL. An operation, facility or machine that has as its primary purpose, the sawing or planing of logs or trees into rough slabs or lumber.

(2) SAWMILL, PORTABLE. A machine used in converting logs to lumber or in refining lumber, which is designed to be transportable.

(3) SCENIC RESOURCES. Natural or built features or landscapes and vistas over them, which would be described as beautiful or visually pleasing by the average viewer.

(4) SCENIC VISTA. A long-distance view that includes foreground and background features, which would be described as beautiful or visually pleasing by the average viewer.

(5) SCREENING. A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms or densely planted vegetation.

(6) SEASONAL DWELLING. See DWELLING, SEASONAL.

(7) SENIOR HOUSING: A housing development designed to meet the needs of residents age 55 or older, living independently in individual dwellings.

(8) SETBACK, BEHIND BUILDING FRONT LINE. The required distance between the frontline of a principal building and the nearest point of any accessory building.

(9) SETBACK, FRONT. The required distance between the edge of the road right-of-way and the nearest point of any structure. If the edge of the right-of-way is unknown, the front setback shall be measured from the centerline of the road by adding 15 feet to the setback distances specified in Article 2 of these regulations.

(10) SETBACK, REAR. The required distance between the rear lot line and the nearest point of any structure.

(11) SETBACK, SIDE. The required distance between the side lot line and the nearest point of any structure.

(12) SHIPPING OR DISTRIBUTION FACILITY: A facility for the receipt, storage and distribution of goods, products, cargo and materials.

(13) SIGN. Any device (including but not limited to letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and is visible from the public right-of-way or other properties. The term sign shall not include any flag, badge, or insignia or any governmental unit, nor shall it include any item of merchandise normally displayed within a show window of a business.

(14) SINGLE-FAMILY DWELLING. See DWELLING, SINGLE-FAMILY.

(15) SINGLE OWNERSHIP OR CONTROL. See COMMON OWNERSHIP.

(16) SITE PLAN. An illustration of a proposed development proposal drawn to sufficient accuracy and detail to be used for the purpose of discussion and review under these regulations.

(17) SLOPE, PERCENT. The ratio of vertical rise or fall to horizontal distance of terrain (rise divided by run).

(18) SLOPE, STEEP. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics as mapped and described in the most recently completed county soil surveys or other similar technical reports. At a minimum, steep slopes shall be interpreted to include any grade of 30% as measured over a distance of 50 feet or more.

(19) STABLE. A structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding or training of equines may also be conducted.

(20) STORY. A space in a building between the surface of any floor and the surface of the next floor above, or if there is no floor above, then the space between such floor and the ceiling or roof above; except that basements and attics shall not be considered stories. Stories shall not exceed a height of 10 feet unless otherwise approved by the DRB in accordance with Section 3.08.

(21) STREAM. Those areas where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the passage of water and includes but is not limited to bedrock, channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include artificially created irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial water courses unless they are used by salmonid or created for the purposes of stream mitigation.

(22) STREAM, USGS MAPPED. A stream that is shown on the most recent edition of the United States Geological Survey 7.5-minute series topographic map.

(23) STREAM, UNMAPPED, INTERMITTENT OR PERENNIAL. A stream that may not contain water year-round and that is not shown on the most recent edition of the United States Geological Survey 7.5-minute series topographic map.

(24) STRUCTURE. An assembly of materials for occupancy, use and/or the shelter of people, animals or property including but not limited to a building, mobile home or trailer, sign, wall, or fence.

(25) STRUCTURE, LIGHTWEIGHT PORTABLE. A structure not attached to a permanent foundation or footings, which is designed to be erected, dismantled and transported by one or two people without the use of vehicles or equipment.

(26) SUBDIVISION. The division of land by sale, gift, lease, mortgage foreclosure, court-ordered partition or decree, or filing of a plat, plan, or deed in the town records where the act of division creates one or more lots. Subdivision shall be deemed to have occurred on the conveyance of the first lot or the filing of a plat, plan, or deed in the town records, whichever occurs first. A subdivision of land shall also be deemed to have taken place when a lot is divided by a state or municipal highway, road or right-of- way or when a lot is divided by surface waters with a drainage area of greater than 10 square miles. [See Chapter 1 of the Environmental Protection Rules § 1-201(60)]

(27) SUBSTANTIALLY COMPLETED. A building, structure or infrastructure that is sufficiently constructed so that it can be used for its intended purpose with no further construction.

(28) SUMMER CAMP: A parcel of land designed to be used for seasonal accommodation of individuals in tents or similar rustic structures, and for use by such individuals for outdoor-oriented activities and recreational pursuits.

(29) SWIMMING POOL. A structure, whether above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes, and which is designed to be installed on a permanent basis. Temporary above ground pools are excluded from this definition.

(T)

(1) TELECOMMUNICATIONS ANTENNA, WIRELESS. A structure that transmits and/or receives electromagnetic signals for the purpose of transmitting personal wireless services as defined in the federal Telecommunications Act of 1996 and as subsequently amended, along with related equipment and base structures. This definition specifically excludes towers or other structures built primarily to support antennas.

(2) TELECOMMUNICATIONS FACILITY. Towers or other support structure, antennas, related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

(3) TELECOMMUNICATIONS TOWER. Any ground-mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting a telecommunications antenna above ground.

(4) TWO-FAMILY DWELLING. See DWELLING, TWO-FAMILY.

(5) TOURIST INFORMATION OR SERVICE FACILITY: A kiosk, information booth or welcome center designed to provide tourism-related information to travelers and/or basic services such as public restrooms.

(6) TOWNHOUSE. See DWELLING, SINGLE-FAMILY ATTACHED.

(7) TRANSIT STOP OR STATION. A building, structure or area designed or used for the purpose of loading, unloading or transferring public transit passengers, or accommodating the movement of transit passengers from one mode of transportation to another.

(8) TRIP. A one-way journey that proceeds from an origin to a destination via a single mode of transportation.

(U)

(1) UNDUE ADVERSE IMPACT. A negative consequence for the physical, social or economic environment resulting from a project that the applicant has failed to take generally available, reasonable steps to avoid or mitigate.

(2) USE. Any purpose for which a lot, building, or other structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

(3) UTILITIES AND INFRASTRUCTURE, COMMUNITY-SERVING. The use of land or structures for provision of public or community services such as energy distribution, potable water, wastewater treatment, stormwater management, telecommunications or transportation. This definition specifically excludes infrastructure serving a single residential structure, driveways, telecommunication antennas, telecommunication towers and energy generating facilities.

(4) UTILITY BOX. Electric transformers, switch boxes, telephone pedestals and telephone boxes, television pedestals and televisions boxes, traffic boxes, and similar devices.

(V)

(1) VEHICLE AND EQUIPMENT SALES AND SERVICE. A facility for the sales, service or repair of automobiles, vehicles or equipment such as a vehicle sales dealership, used vehicle sales lot, gas station or repair garage. This definition specifically excludes junkyards.

(W)

(1) WAREHOUSING OR STORAGE FACILITY. A facility for the storage of goods, materials, products, parts, supplies, vehicles or equipment.

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

(3) WHOLESALE SALES FACILITY. An establishment primarily engaged in selling or distributing merchandise to retailer, industrial, commercial, institutional, professional or other wholesale customers rather than to the public or consumer.

(4) WILDLIFE HABITAT, CRITICAL. An area that because of climate, soils, vegetation, relationship to water and other physical properties has been identified as of critical importance to the survival of one or more wildlife species at any period in its life including breeding and migratory periods within the town. Critical wildlife habitat may be identified in the town plan, by the state or federal government, or by qualified natural resource professionals based on either remote sensing data or on-site field investigation.

(5) WILDLIFE TRAVEL CORRIDOR. A linear area of land and/or water through which wildlife travels to feed, seek refuge, and migrate between seasons. Wildlife travel corridors may be identified in the town plan, by the state or federal government, or by qualified natural resource professionals based on either remote sensing data or on-site field investigation.

(6) WOOD PROCESSING. A facility, site or use for the processing of timber into lumber, firewood, wood shavings or similar value-added product. Includes the short-term or periodic use of a portable sawmill.

(7) WORKING LAND. Land actively used or managed for farming or forestry purposes.

(X)

(Y)

(1) YARD. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure, except for projections in accordance with Section 3.10, from the ground upward.