



**The City of**  
**Rutland, Vermont**

# **LAND DEVELOPMENT REGULATIONS**

**Zoning**

**Architectural and Design Guidelines**

**Subdivision**

**Flood Hazard Areas and River Corridors**

Adopted by the Rutland City Board of Aldermen: November 17, 2025

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# **CITY OF RUTLAND, VT - LAND DEVELOPMENT REGULATIONS**

## **Title 31 – Zoning**

### **ARTICLE I ENACTMENT AND INTENT**

#### **§ 31-101 Enactment**

These Zoning Regulations and Appendices for the City of Rutland are hereby established in accordance with the Vermont Municipal and Regional Planning and Development Act, Title 24 VSA Chapter 117 (the “Act”) and entitled “City of Rutland Land Development Regulations”.

- (A) Purpose - These Regulations are enacted to achieve the goals and purposes established in the Act, to integrate regulatory provisions enabled under the Act into one unified set of development regulations, and to implement the goals of the City of Rutland Municipal Plan. The general purposes of these Regulations are:
1. To encourage the use and development of lands in the City of Rutland in a manner that promotes the public health, safety and welfare;
  2. To implement the goals of the City’s municipal plan
  3. To foster continued investment, revitalization, and enhanced quality of life in the City’s residential neighborhoods;
  4. To enable the development and location of uses and facilities consistent with the City’s position as the regional center, while respecting the quality of life in residential neighborhoods;
  5. To protect the quality of rivers, streams, and park lands within the City;
  6. To promote quality urban and civic design in a manner consistent with the City’s goals for a vibrant and dynamic economy;
  7. To promote architectural design and the conservation and protection of historic resources in designated Design Control and Historic Districts, as set forth in these Regulations; and
  8. To promote and foster the City’s rich cultural and arts resources.

#### **§ 31-102 Applicability**

- (A) General - In accordance with the Act, no land development, changes to lot lines, or subdivision of land as defined in these Regulations shall commence in the City of Rutland except in conformance with these Regulations. Any land development, changes to lot lines, or subdivision of land not specifically authorized under these regulations is prohibited, unless otherwise exempted under the Act or these Regulations.
- (B) Relationship to City Ordinances - No provision of these Regulations shall supersede any provision of the City’s Building Code or other general Ordinances related to the development of land.

#### **§ 31-103 Amendment**

These Regulations, including any maps incorporated by reference, may be amended or repealed only in accordance with the requirements and procedures established in the Act.

#### **§ 31-104 Severability**

In the event that any part of these Regulations, or their application, is determined to be invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other part of these Regulations or their application.

### **§ 31-105 Effective Date**

In accordance with the Act, these regulations and appendices shall take effect twenty-one (21) days from the date of adoption by Board of Aldermen of the City of Rutland. All zoning, flood hazard areas and subdivision regulations previously in effect for the City of Rutland are repealed as of the effective date of these regulations.

## **ARTICLE II ADMINISTRATION AND ENFORCEMENT**

### **§ 31-201 Zoning Administrator**

- (A) A Zoning Administrator shall be appointed by the Mayor and confirmed by a vote of the Board of Aldermen (known in the Act as an Administrative Officer) for a term of two (2) years in accordance with the City's Charter.
- (B) The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate. The Zoning Administrator shall be authorized to prepare City permit applications, development review checklists, and other administrative forms, and to update these forms as experience and amendments to these Regulations dictate.
- (C) If any uncertainty exists with respect to the boundary of any zoning district on the Rutland City Zoning Map, the presumption shall be that the zoning boundaries follow the property lot lines as depicted on the zoning map. The Zoning Administrator shall determine the exact location of the zoning boundary in question.

### **§ 31-202 Zoning Permit**

- (A) No development shall commence without a zoning permit issued by the Zoning Administrator. No zoning permit may be issued by the Zoning Administrator except in conformance with these regulations. The applicant shall fully complete the "City of Rutland Application for Zoning Permit" with the required attachments and fee. The Application for Zoning Permit shall be signed by an owner of the property or a duly authorized agent of owner.
- (B) Any development or use not permitted in a zoning district by these bylaws shall be deemed prohibited.
- (C) Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act to issue or deny a zoning permit in writing or shall refer the application to the DRB for consideration. If the Zoning Administrator fails to act within the thirty (30) day period, a permit shall be deemed issued on the thirty-first (31st) day.
- (D) No zoning permit shall be issued by the Zoning Administrator for any use or structure that requires the approval of the DRB until such approval has been obtained.
- (E) A zoning permit shall specify the date of issuance and contain a statement of the time period within which an appeal may be filed.
- (F) No zoning permit issued by action of the Zoning Administrator shall be deemed effective until a fifteen (15) day appeal period has passed. No zoning permit issued in association with a decision of the Development Review Board shall be deemed effective until the appeal period for that decision has passed. In the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

## § 31-203 Exemptions and Limitations

1. No zoning permit is required for the following, unless otherwise required by Appendix C of these Bylaws - Rutland City Flood Hazard Area Regulations.
  - (A) Fences eight feet or less in height that are not constructed of barbed wire, razor wire, or similar type of material.
  - (B) Walls six feet or less in height.
  - (C) Landings that do not exceed 36 square feet and ADA compliant ramps.
  - (D) Steps which are not covered.
  - (E) Doghouses, swing sets, driveways, flagpoles and other such structures.
  - (F) All signs (*see City of Rutland Sign Ordinance – separate permits required*)
  - (G) A detached structure of not more than 150 square feet, not in a Special Flood Hazard Area, that meets all applicable dimensional requirements of the district.
  - (H) Landscape improvements, the creation of vegetation features and routine maintenance. This does not include site work in preparation for development, which is considered development.
  - (I) Minor structural modifications/repairs (*except as provided in § 31-209 - Design Control Districts*).
  - (J) Any repair, structural alteration or alteration of any building or other structure which does not change the use or footprint or increase the square footage of said structure (*except as provided in § 31-209-Design Control Districts*).
  - (K) Fire escapes (*except as provided in § 31-209 - Design Control Districts*).
  - (L) Utility boxes.
  - (M) HVAC systems, backup generators, or similar type of mechanical equipment located to the side or rear of the building served, with a footprint no greater than 150 sq. ft.
  - (N) Fuel tanks located to the side or rear of the building served with a capacity of 1,000 gallons or less for on-site use.
  - (O) Demolition of a structure (*except as provided in § 31-209 - Design Control Districts*).
  - (P) Satellite dishes up to five feet in diameter and antennas up to 12 feet beyond the roofline of the building.
  - (Q) Temporary structure if removed within 10 days after the primary project is completed.
  - (R) Charging stations as an accessory use.
  - (S) Installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. Flat Roof means having a slope less than or equal to 5 degrees.
  - (T) Solar collectors regulated under 30 VSA §248, clotheslines, or other energy devices based on renewable resources.
  - (U) One or two-day tag, garage or estate sales.
  - (V) Required Agricultural Practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets or accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation. Agricultural uses not considered a RAP shall be regulated by this Bylaw. Forest and silvicultural uses not considered a forestry operation shall be regulated by this Bylaw.
  - (W) Public utility power generating plants and transmission facilities which feed into the grid, regulated under the State of Vermont 30 VSA §248.
2. **The following uses require a Zoning Permit;** however, in accordance with the Act, 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 bylaws do not have the effect of interfering with the intended functional use.

- (A) State or community-owned and operated institutions and facilities.
- (B) Public and private schools and other educational institutions certified by the Vermont Department of Education.
- (C) Churches and other places of worship, convents, and parish houses.
- (D) Public and private hospitals.
- (E) Regional solid waste management facilities certified under 10 VSA chapter 159.
- (F) Hazardous waste management facilities for which a *Notice of Intent to Construct* has been received under 10 VSA.
- (G) Emergency shelters (*as defined by the Act*).
- (H) Hotels and motels converted to permanently affordable housing developments.

### **§ 31-204 Fees**

The Board of Aldermen shall establish all fees to be charged for the administration of these regulations. A fee schedule shall be maintained and available for public distribution.

### **§ 31-205 Fines and Penalties**

The Board of Aldermen resolved to establish daily fines for any person who violates the City of Rutland Zoning Bylaws in an amount that is consistent with the penalties authorized by the Act, with each day that a violation continues constituting a separate offense and with the City having the ability to seek double the amount of the fine in default of payment.

### **§ 31-206 Appeals; Variances**

All appeals and applications for variance shall be filed as prescribed by the Act.

### **§ 31-207 Development Review Board**

- (A) A Development Review Board (DRB), consisting of not less than five (5) nor more than nine (9) members, shall be appointed by the Mayor and confirmed by vote of the Board of Aldermen in accordance with the City's Charter. Per the Act, the Mayor also may assign alternate members to serve on the DRB in situations where one (1) or more members are disqualified or otherwise unable to serve.
- (B) The term for the members and alternates of the DRB shall be three (3) years. The terms of the initial members of the Board shall be: one (1) member for 1 (one) year, 2 (two) members for 2 (two) years and 2 (two) members for 3 (three) years. The terms of the initial alternates shall be: 1 (one) for 1 (one) year, 1 (one) for 2 (two) years and 1 (one) for 3 (three) years. The alternates shall serve when one or more members of the DRB are unable to serve for whatever reason. Vacancies shall be filled by the same appointment process as for members, and the replacement shall serve the remainder of the term of the member replaced.
- (C) Each member of the DRB may be removed for cause by the Board of Aldermen upon written charges and after public hearing.
- (D) The DRB shall have all review functions specified in these regulations and in the Act.
- (E) The DRB shall adopt procedures and rules of ethics with respect to conflicts of interest, conform with open meeting procedures, carry out review procedures, elect officers, and otherwise conduct business as specified in the Act.

(F) A quorum shall be required for official action. A quorum shall constitute not less than a majority of the Board.

(G) The DRB may examine evidence bearing upon a matter, administer oaths and take sworn testimony on a matter, and require specific proof.

(H) The DRB shall issue decisions in accordance with the requirements set forth in the Act.

### **§ 31-208 Conditional Uses**

The applicant for Conditional Use approval shall submit a Zoning Permit Application to the Zoning Administrator in accordance with §31-202.

(A) The Development Review Board shall review and may approve a conditional use provided the proposed conditional use shall not result in an undue adverse effect on any of the following:

1. The capacity of existing or planned community facilities;
2. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated in the municipal plan
3. Traffic on roads and highways in the vicinity;
4. Bylaws then in effect;
5. Utilization of renewable energy resources;

(B) In granting such conditional uses, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act and these zoning bylaws.

(C) All applications for Conditional Use approval must satisfy the criteria of §31-210 Site Plan Requirements and Review.

### **§ 31-209 Design Control Districts**

The City of Rutland has established Design Control Districts within the City. These are as a result of a report on designation of Design Control Districts prepared by the Rutland City Planning Commission, establishing Design Control Districts that include the following:

- Downtown Business District (*see Appendix A*)
- Courthouse District
- Main Street Park District
- All Gateway Business Districts

(A) All new construction, demolition, and exterior modifications within a Design Control District shall require design review except:

1. Maintenance, repair, or same kind replacement of exterior materials.
2. Window replacement of the same dimensions.
3. Alteration or construction of accessory structures under 500 sq. ft.
4. Fences eight feet or less in height that are not chain linked, constructed of barbed wire, razor wire, or similar type of material.
5. Emergency demolition as determined by the Building Inspector.
6. Alteration or construction of uncovered decks.
7. Fire escapes located to the side or rear of a structure.
8. Interior renovations.

(B) All new construction, demolition, and exterior modifications within a Design Control District, unless specifically excluded in §31-203 or Subsection A above, shall require a zoning permit and

review by the Architectural Review Committee. There shall be initial review by the Architectural Review Committee which shall report to the Zoning Administrator or Development Review Board.

- (C) Proposed uses that require Site Plan or Conditional Use review by the Zoning District or General Regulations shall be referred to the DRB prior to the issuance of a permit. Proposed uses that require Administrative Review by the Zoning District or General Regulations shall be referred to the Zoning Administrator for permitting.
- (D) When required, the Architectural Review Committee shall review exterior development in the Downtown Business District pursuant to the Architectural and Design Guidelines (*Appendix A*). When required, the Architectural Review Committee shall review exterior development within all other Design Control Districts pursuant to the specific design criteria and standards for the district.
- (E) When required, the Development Review Board shall review exterior development under Site Plan Review (as detailed in §31-210, plus any specific design criteria and standards for the district) to determine the decision on the design aspect of the proposed development.
- (F) Any other zoning permits issued within a Design Control District that do not require design review pursuant to Subsection A above will be reviewed by the Zoning Administrator. The Zoning Administrator may approve the zoning permit. However, if in the opinion of the Zoning Administrator, minor exterior modifications are being made which will change the facade, roof line, window patterns and other exterior modifications, the Zoning Administrator may require review by the Architectural Review Committee.

### **§ 31-210 Site Plan Requirements and Review**

The applicant for Site Plan Approval shall submit a Zoning Permit Application to the Zoning Administrator in accordance with §31-202.

- (A) The Applicant shall submit two sets of the site plans drawn to an appropriate scale and supporting data to the Development Review Board which shall include the following information unless deemed unnecessary by the Zoning Administrator.
  - 1. Name and address of owners of record;
  - 2. Name and address of applicant if different from owner;
  - 3. Name and address of adjoining landowners;
  - 4. Estimated time of completion;
  - 5. Existing and proposed features clearly indicated;
  - 6. Structures and other improvements;
  - 7. Streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks, elevations, landscaping including grading, landscape design, screening and drainage, walls, retaining walls, etc.;
  - 8. Soil erosion and sediment control plans;
  - 9. Proposed utility plans including but not limited to drainage lines, catch basins, swales, sewer lines, water lines, utility lines, etc.
- (B) The Development Review Board shall review the zoning application, including site plan application, including but not limited to the maps, data and other information submitted by the applicant and may impose appropriate conditions and safeguards to ensure adequacy of:
  - 1. Access, circulation, parking, and connection to adjoining properties and transportation facilities (existing and proposed).
  - 2. Landscaping, screening, and exterior lighting.
  - 3. The utilization of renewable energy resources and energy conservation.
  - 4. Aesthetic relationship between proposed uses and existing surrounding uses.



5. Drainage, stormwater management, protection of soils, wetlands and streams.
6. Protection of agriculture and forestry resources.
7. Preservation of historic sites and natural areas.
8. Public and private utility services.
9. Education and government services.

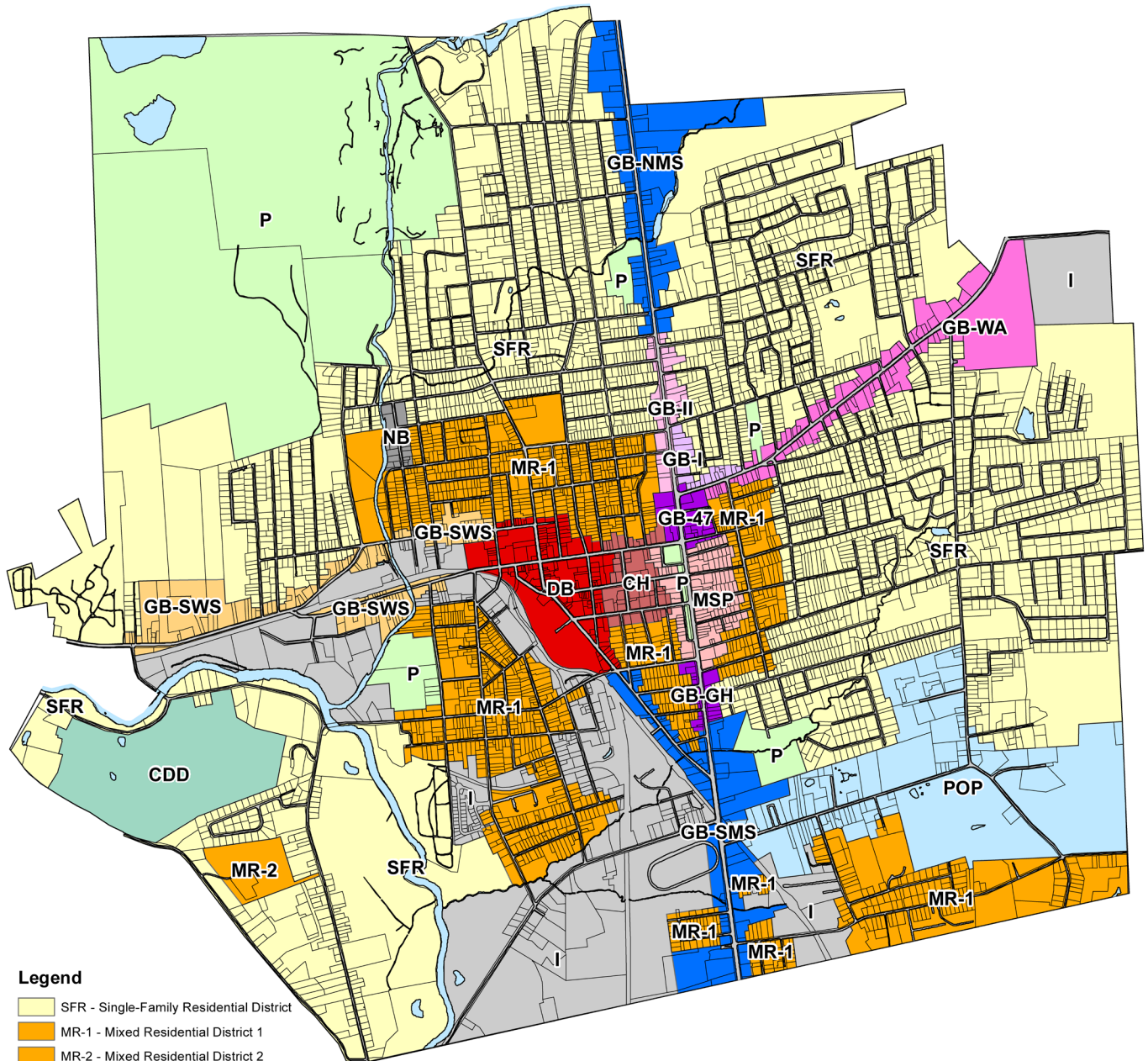
### **§31-211 Administrative Review**

- (A) Authority - The Zoning Administrator is hereby authorized to conduct administrative review and approval of site plan and design review applications for permitted uses as provided below.
- (B) Determination of Eligibility - All determinations of eligibility for zoning administrative review are subject to the discretion of the Zoning Administrator. The Zoning Administrator may review, approve, approve with conditions, or deny administrative amendments to site plans and design review involving a permitted use if the proposed amendment meets one or more of the following thresholds and criteria:
1. Relocation of site improvements and/or accessory structures that have been previously approved, provided that such relocations do not alter the approved coverage for the site.
  2. Re-approval of plans if a permit issued by the Development Review Board has expired within the preceding six months and no changes or alterations of any kind are proposed, including those outlined in (4) below.
  3. Approval of plans showing as-built adjustments beyond standard field adjustments, provided that such adjustments do not require the amendment of any condition of approval in the most recent findings of fact.
  4. Minor alterations to an approved landscaping plan such as substitution of appropriate similar species or landscaping or hardscaping material, provided that the landscaping proposed in the amended plan is equal to or exceeds the landscaping approved by the DRB.
  5. An increase in building area and/or impervious coverage totaling less than five thousand (5,000) square feet or three percent (3%) of the overall site coverage, whichever is smaller. Applicants are advised that the cumulative total increase in building area and/or site coverage cumulatively permitted through all administrative amendments on any one lot shall not exceed five thousand (5,000) square feet or three percent (3%) of the overall site coverage, whichever is smaller. Development Review Board approval shall be required for any amendment exceeding these limits.
  6. Changes in use of all or part of a building or structure with prior site plan approval to a permitted use in the applicable zoning district, provided the proposed use, whether solely or in combination with other uses subject to the same approval, will not result in any permitting requirement or threshold being exceeded or violated.
- (C) Reporting of Decisions - All administrative approvals shall be reported by the Zoning Administrator to the Development Review Board at its next meeting following the date of the approval, and all such decisions of the Zoning Administrator shall state that the decision may be appealed in accordance with State law.

### **§31-212 Streamlined Review by DRB**

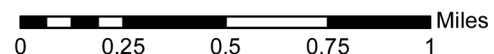
If a development requires more than one review, such as zoning review, site plan, design control, subdivision review or conditional use review, these reviews may be combined into a single hearing.

# City of Rutland Zoning Map



## Legend

- SFR - Single-Family Residential District
- MR-1 - Mixed Residential District 1
- MR-2 - Mixed Residential District 2
- GB-SMS - Gateway Business District - South Main Street
- GB-GH - Gateway Business District - Gouger Hill
- GB-47 - Gateway Business District - Routes 4 & 7
- GB-I - Gateway Business District - I
- GB-II - Gateway Business District - II
- GB-NMS - Gateway Business District - North Main Street
- GB-WA - Gateway Business District - Woodstock Avenue
- GB-SWS - Gateway Business District - State & West Streets
- DB - Downtown Business District
- CH - Courthouse District
- MSP - Main Street Park District
- POP - Planned Office Park District
- I - Industrial District
- NB - Neighborhood Business District
- P - Park District
- CDD - Campus Development District



## **ARTICLE III DISTRICTS**

A Use that is not listed as a permitted or conditional use within a district below is not allowed within the district (see §31-414 Unlisted Use).

### **§ 31-301 Single Family Residential District (SFR)**

(A) There is hereby established a single-family residential district hereinafter referred to as SFR.

(B) The area and dimensions for SFR shall be:

1. Minimum lot size 8,700 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 25 ft. *(see §31-409 Setback Relief)*
  - b. Side 15 ft.
  - c. Rear 20 ft.
4. Maximum building height 40 ft.

(C) The following are permitted uses in SFR *(Administrative Review)*

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling (max. four units)
4. Family Childcare Home
5. Recreation Facility, Passive

(D) Conditional Uses *(DRB Review)*

1. School and school uses *(see §31-203 Exemptions and Limitations)*
2. Cemetery
3. Bed and Breakfast
4. Day Care - Small
5. Recreation Facility, Outdoor

(E) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§ 31-302 Mixed Residential District 1 (MR-1)**

(A) There is hereby established a mixed residential district hereinafter referred to as MR-1.

(B) The area and dimensions for MR-1 shall be:

1. Minimum lot size 5,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft. *(see §31-409 Setback Relief)*
  - b. Side 5 ft.
  - c. Rear 10 ft.
4. Maximum Building height 40 ft.

(C) The following are permitted uses in MR-1 *(Administrative Review)*:

1. Single-Unit Dwelling
2. Two-Unit Dwelling

3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Family Childcare Home
5. Neighborhood Retail
6. Bed & Breakfast
7. Day Care - Small
8. Recreation Facility, Passive

(D) Conditional Uses (DRB Review):

1. Office
2. Funeral Homes
3. Community Facility (see §31-203 Exemptions and Limitations)
4. Cemetery
5. Club
6. Mobile home parks
7. School and School uses (see §31-203 Exemptions and Limitations)
8. Industry, Cottage
9. Recreation Facility, Outdoor

(E) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **§ 31-302(a) Mixed Residential District 2 (MR-2)**

(A) There is hereby established a mixed residential district hereinafter referred to as MR -2.

(B) The minimum lot size and dimensions for MR-2 uses shall be:

1. Minimum lot size: 8,700 sf.
2. Minimum frontage: 50 feet
3. Minimum setbacks:
  - a. Front 200 ft. (see §31-409 Setback Relief)
  - b. Side 50 ft.
  - c. Rear 50 ft.
4. Maximum building height 40 ft.

(C) The following are permitted uses in MR-2 (Administrative Review):

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Family Childcare Home
5. Recreation Facility, Passive

(D) Conditional Uses (DRB Review)

1. School and school uses (see §31-203 Exemptions and Limitations)
2. Cemetery
3. Bed and Breakfast
4. Day care – small
5. Industry, Cottage
6. Recreation Facility, Outdoor

(E) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§ 31-303 Gateway Business District - South Main Street**

(A) There is hereby established a Gateway Business District - South Main Street.

(B) The area and dimensions for GB-SMS shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.

(C) Maximum building height 40 ft.

(C) The following are Permitted Uses in GB-SMS (*Administrative Review*):

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Family Childcare Home
5. Day Care - Small
6. School and School uses (*see §31-203 Exemptions and Limitations*)
7. Bed & Breakfast
8. Retail Store
9. Office
10. Restaurant
11. Hotel/Inn/Motel
12. Medical Clinic
13. Community Facility (*see §31-203 Exemptions and Limitations*)
14. Funeral Home
15. Day Care - Large
16. Clubs
17. Indoor Recreation
18. Industry, Cottage
19. Recreation Facility, Passive

(D) Conditional Uses (*DRB Review*)

1. Nightclub
2. Bar
3. Halfway House
4. Recreation Facility, Outdoor

(E) Design Criteria Gateway Business - South Main Street (*see §31-209*)

1. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
2. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
3. Lighting shall be designed so as to minimize visual glare to adjacent properties.

4. Landscaping shall be incorporated into site design.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§31-304 Gateway Business District - Gouger Hill**

(A) There is hereby established a Gateway Business District - Gouger Hill.

(B) The area and dimensions for GB-GH shall be:

1. Minimum lot size      8,500 sf.
2. Minimum frontage    50 ft.
3. Minimum setbacks
  - a. Front      10 ft.
  - b. Side       10 ft.
  - c. Rear       10 ft.

(C) The Following are Permitted Uses in GB-GH (Administrative Review):

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Family Childcare Home
5. Day Care - Small
6. Office
7. Medical Clinic
8. Funeral Home
9. Day Care - Large
10. Bed & Breakfast
11. Industry, Cottage
12. Recreation Facility, Passive

(D) Conditional Uses (DRB Review)

1. Halfway house
2. Recreation Facility, Outdoor

(E) Design Criteria Gateway Business - Gouger Hill (see §31-209)

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. Landscaping shall be incorporated into site design.

(G) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **§ 31-305 Gateway Business District - Routes 4 & 7**

(A) There is hereby established a Gateway Business District - Routes 4 & 7.

(B) The area and dimensions for GB- 4&7 shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) The Following are Permitted Uses in GB- 4&7 (Administrative Review)

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum
4. Family Childcare Home
5. Day Care - Small
6. Bed & Breakfast
7. Retail Store
8. Office
9. Restaurant
10. Medical Clinic
11. Recreation, Passive
12. Industry, Cottage
13. School and School Uses (see §31-203 Exemptions and Limitations)
14. Community Facility (see §31-203 Exemptions and Limitations)

(D) Conditional Uses (DRB Review)

1. Clubs
2. Indoor Recreation
3. Service Station
4. Halfway House
5. Recreation Facility, Outdoor

(E) Design Criteria Gateway Business - 4 & 7 (see §31-209)

1. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
2. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
3. Lighting shall be designed so as to minimize visual glare to adjacent properties.
4. Landscaping shall be incorporated into site design.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **§ 31-306 Gateway Business District - I**

(A) There is hereby established a Gateway Business -I District.

(B) The area and dimensions for GB-I shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) The Following are Permitted Uses in GB-I (*Administrative Review*)

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Family Childcare Home
5. Bed & Breakfast
6. Day Care - Small
7. Office
8. Funeral Home
9. Recreation, Passive
10. Industry, Cottage
11. Restaurant
12. Community Facility (*see §31-203 Exemptions and Limitations*)
13. School and School Uses (*see §31-203 Exemptions and Limitations*)

(D) Conditional Uses (*DRB Review*)

1. Recreation Facility, Outdoor

(E) Design Criteria Gateway Business - I District (*see §31-209*)

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. The scale and setting of the buildings comprising the existing Main Street streetscape north of Woodstock Avenue to Temple Street shall be maintained and preserved in these areas.
6. Additions, alterations and new construction in this district shall reflect the size, scale and visual character of the existing, traditional architecture, north of Woodstock Avenue to Temple Street employing such architectural elements as gabled roofs, horizontal wood or brick siding, articulated windows and 2-1/2 story heights.
7. Landscaping shall be incorporated into site design.



(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **§ 31-307 Gateway Business District – II**

(A) There is hereby established a Gateway Business District - II.

(B) The area and dimensions for GB-II shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) The Following are Permitted uses in GB-II (*Administrative Review*)

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Community facility (*see §31-203 Exemptions and Limitations*)
5. Family Childcare Home
6. Bed & Breakfast
7. Day Care - Small
8. Office
9. Restaurant
10. Funeral Home
11. Day Care – Large
12. Indoor Recreation
13. Recreation Facility, Passive
14. Industry, Cottage
15. School and School Uses (*see §31-203 Exemptions and Limitations*)

(D) Conditional Uses (*DRB Review*)

1. Clubs
2. Halfway House
3. Retail Store
4. Recreation Facility, Outdoor

(E) Design Criteria Gateway Business District – II (*see §31-209*)

1. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
2. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
3. Lighting shall be designed so as to minimize visual glare to adjacent properties.
4. Landscaping shall be incorporated into site design.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **§ 31-308 Gateway Business District - North Main Street**

(A) There is hereby established a Gateway Business District - North Main Street.

(B) The area and dimensions for GB-NMS shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) The Following are Permitted uses in GB-NMS (*Administrative Review*)

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Community Facility (*see §31-203 Exemptions and Limitations*)
5. Family Childcare Home
6. Bed & Breakfast
7. Day Care - Small
8. Retail Store
9. Office
10. Restaurant
11. Hotel/Inn/Motel
12. Medical Clinic
13. Funeral Home
14. Day Care - Large
15. Indoor Recreation
16. School and school uses (*see §31-203 Exemptions and Limitations*)
17. Recreation Facility, Passive
18. Industry, Cottage

(D) Conditional Uses (*DRB Review*)

1. Clubs
2. Halfway House
3. Recreation Facility, Outdoor
4. Service Station
5. Light Industry

(E) Design Criteria Gateway Business - North Main Street (*see §31-209*)

1. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
2. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
3. Lighting shall be designed so as to minimize visual glare to adjacent properties.
4. Landscaping shall be incorporated into site design.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **§ 31-309 Gateway Business District - Woodstock Avenue**

(A) There is hereby established a Gateway Business District - Woodstock Avenue.

(B) The area and dimensions for GB-WA shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) The Following are Permitted uses in GB-WA (*Administrative Review*)

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Family Childcare Home
5. School and school uses (*see §31-203 Exemptions and Limitations*)
6. Bed & Breakfast
7. Day Care - Small
8. Retail Store
9. Office
10. Restaurant
11. Hotel/Inn/Motel
12. Medical Clinic
13. Community Facility (*see §31-203 Exemptions and Limitations*)
14. Funeral Home
15. Day Care – Large
16. Indoor Recreation
17. Recreation Facility, Passive
18. Industry, Cottage

(D) Conditional Uses (*DRB Review*)

1. Clubs
2. Service Station
3. Halfway House
4. Recreation Facility, Outdoor
5. Light Industry

(E) Design Criteria Gateway Business - Woodstock Ave. (*see §31-209*)

1. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
2. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
3. Lighting shall be designed so as to minimize visual glare to adjacent properties.
4. Landscaping shall be incorporated into site design.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **§ 31-310 Gateway Business District - State & West Streets**

(A) There is hereby established a Gateway Business District - State & West Streets.

(B) The area and dimensions for GB-S&WS shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) The Following are Permitted uses in GB-S&WS (*Administrative Review*)

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 500 square feet of lot size over the minimum.
4. Family Childcare Home
5. School and school uses (*see §31-203 Exemptions and Limitations*)
6. Bed & Breakfast
7. Day Care - Small
8. Retail Store
9. Office
10. Restaurant
11. Hotel/Inn/Motel
12. Medical Clinic
13. Community Facility (*see §31-203 Exemptions and Limitations*)
14. Funeral Home
15. Day Care - Large
16. Warehousing and Distribution
17. Light Industry
18. Indoor Recreation
19. Industry, Cottage
20. Recreation Facility, Passive

(D) Conditional Uses (*DRB Review*)

1. Clubs
2. Recreation Facility, Outdoor
3. Service Station
4. Nightclub
5. Bar
6. Halfway House

(E) Design Criteria Gateway Business - State & West Streets (*see §31-209*)

1. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
2. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
3. Lighting shall be designed so as to minimize visual glare to adjacent properties.

4. Landscaping shall be incorporated into site design.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§ 31-311 Downtown Business District (DB)(see Appendix A)**

(A) There is hereby established a Downtown Business District hereinafter referred to as DB.

(B) The area and dimensions for DB shall be:

1. Minimum lot size                      2,500 sf.
2. Minimum frontage                    0 ft.
3. Minimum setbacks
  - a. Front                      0 ft.
  - b. Side                        0 ft.
  - c. Rear                       0 ft.
4. Maximum building height: None

(C) Permitted Uses (Administrative Review)

1. Single - Unit Dwelling
2. Two - Unit Dwelling
3. Multi - Unit Dwelling
4. Family Childcare Home
5. Day Care - Small
6. Retail Store
7. Office
8. Restaurant
9. Bar
10. Nightclub
11. Hotel/Inn
12. Medical Clinic
13. School and School Uses (see §31-203 Exemptions and Limitations)
14. Recreation Facility, Indoor
15. Community Facility
16. Club
17. Funeral Home
18. Day Care - Large
19. Light Industry
20. Halfway House
21. Industry, Cottage

(D) Conditional Uses (DRB Review)

1. Warehousing and Distribution
2. Hospital
3. Parking facilities

(E) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§31-312 Courthouse District (CH)**

(A) There is hereby established a Courthouse District hereinafter referred to as CH

(B) The area and dimensions for the CH zone shall be:

1. Minimum lot size 6,000 sf.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) Permitted Uses (*Administrative Review*)

1. Single - Unit Dwelling
2. Two - Unit Dwelling
3. Multi - Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling, there shall be an additional 1,000 square feet of lot size over the minimum.
4. Family Childcare Home
5. Retail Store
6. Office
7. Medical Clinic
8. School and School Uses (*see §31-203 Exemptions and Limitations*)
9. Community Facility (*see §31-203 Exemptions and Limitations*)
10. Bed and Breakfast
11. Funeral Home
12. Day Care - Small
13. Day Care - Large
14. Clubs
15. Indoor Recreation
16. Halfway house
17. Recreation Facility, Passive
18. Industry, Cottage

(D) Conditional Uses (*DRB Review*)

1. Recreation Facility, Outdoor

(E) Design Criteria (*see §31-209*)

1. Physical elements such as yards, fences, screening, entrance drives, landscaping, accessory buildings and onsite parking areas shall be similar to or compatible with elements existing in the immediate area which complement the existing architecture.
2. Parking area and garages should be located to the rear of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Additions and/or alterations to building listed as contributing structures in the National Register, shall adhere to the United States Secretary of the Interiors Standards for Rehabilitating Historic Buildings.
4. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
5. Lighting shall be designed so as to minimize visual glare to adjacent properties. Lights shall be compatible with the traditional residential character of the district.
6. No internally illuminated signs are permitted and no sign may be larger than 32 square feet. All other conditions of R.O.R. Title 10 shall apply.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§31-313 Main Street Park District (MSP)**

(A) There is hereby established a Main Street Park District hereinafter referred to as MSP.

(B) The area and dimensions for the MSP Zone shall be:

1. Minimum lot size 6,500 sq. ft.
2. Minimum frontage 50 ft.
3. Minimum setbacks
  - a. Front 20 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height 40 ft.

(C) Permitted Uses (*Administrative Review*)

1. Single - Unit Dwelling
2. Two - Unit Dwelling
3. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 1,000 square feet of lot size over the minimum.
4. Family Childcare Home
5. Office
6. School and School Uses (*see §31-203 Exemptions and Limitations*)
7. Bed & Breakfast
8. Funeral Home
9. Community Facility (*see §31-203 Exemptions and Limitations*)
10. Recreation Facility, Passive

(D) Conditional Uses (*DRB Review*)

1. Recreation Facility, Outdoor
2. Industry, Cottage

(E) Design Criteria (*see §31-209*)

1. Physical elements such as yards, fences, screening, entrance drives, landscaping, accessory buildings and onsite parking areas shall be similar to or compatible with elements existing in the immediate area which complement the existing architecture.
2. Parking area and garages should be located to the rear of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Additions and/or alterations to building listed as contributing structures in National Register shall adhere to the Secretary of the Interiors Standards for Rehabilitating Historic Buildings.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties. Lights shall be compatible with traditional residential character of the district.
5. No internally illuminated signs are permitted and no sign may be larger than 32 square feet. All other conditions of R.O.R. Title 10 shall apply.
6. Accessories such as storage tanks, utilities, satellite dishes, and dumpsters should be placed in unobtrusive locations, and screened from view.
7. New construction should be compatible with the rhythm (density and setbacks) established by the existing residential scale structures which comprise the streetscape.

New construction should reflect the scale and visual character of the existing traditions, residential architecture, employing such architectural elements as gabled roofs, roof pitches similar to those of nearby residential buildings, horizontal siding, articulated windows, and 2 ½ story heights.

(F) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§ 31-314 Planned Office Park District (POP)**

(A) There is hereby established a Planned Office Park District hereinafter referred to as POP.

(B) The area and dimensions for POP shall be:

1. Minimum lot size 8,500 sf.
2. Minimum frontage 20 ft.
3. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
4. Maximum building height None

(C) Permitted Uses (Administrative Review)

1. Office
2. Single-Unit Dwelling
3. Two-Unit Dwelling
4. Multi-Unit Dwelling. For each additional dwelling unit in excess of a four-unit dwelling there shall be an additional 1,000 square feet of lot size over the minimum.
5. Family Childcare Home
6. Bed & Breakfast
7. Day Care - Small
8. Retail Store
9. Residential Health Care Facilities
10. Hospital
11. Medical Clinic
12. Skilled Nursing Facility
13. Community Facility (see §31-203 Exemptions and Limitations)
14. Day Care – Large
15. School and school uses (see §31-203 Exemptions and Limitations)
16. Cemetery
17. Recreation Facility, Passive
18. Industry, Cottage

(D) Conditional Uses (DRB Review)

1. Recreation Facility, Outdoor

(E) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§ 31-315 Industrial District (I)**

(A) There is hereby established an Industrial District hereinafter referred to as I.

(B) There are no minimum area and dimension requirements for the Industrial District.



- (C) Permitted Uses - All uses are allowed in the Industrial Zone subject to Article IV - General Regulations.

### **§ 31-316 Neighborhood Business District (NB)**

- (A) There is hereby established a Neighborhood Business District hereinafter referred to as NB.
- (B) There are no minimum area and dimension requirements for the NB district.
- (C) All uses are allowed in the NB district, subject to §31-210 Site Plan Requirements and Review and Article IV - General Regulations.
- (D) Site Plan Review Required as Follows:  
Given that the neighborhood business district has been developed as a highly intense business district and adjoins a residential district, any and all development, including additions, alterations or new construction shall be subject to review by the Development Review Board (§31-210 Site Plan Requirements and Review, See §31-415 Performance Standards).

### **§31-317 Park District (P)**

- (A) There is hereby established a Park District hereinafter referred to as P.
- (B) The area and dimensions for P shall be:
1. Minimum lot size 1 acre
  2. Minimum frontage 100 ft.
  3. Minimum setbacks
    - a. Front 25 ft.
    - b. Side 20 ft.
    - c. Rear 20 ft.
  4. Maximum building height 40 ft.
- (C) The Following are Permitted Uses in P (Administrative Review):
1. Recreation Facility, Outdoor
  2. Recreation Facility, Passive
- (D) The Following are Conditional Uses in P (DRB Review):
1. Recreation Facility, Indoor
- (E) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

### **§ 31-318 Campus Development District (CDD)**

- (A) There is hereby established a Campus Development District hereinafter referred to as CDD. The general goal of the CDD district is to allow for a mixture of uses and ownership structures that support a variety of community goals as outlined in the City of Rutland Municipal Plan.
- (B) The area and dimensions for CDD shall be:
1. Minimum lot size 1 acre
  2. Minimum frontage 100 ft.
  3. Setbacks 50 ft front, rear and side
  4. Maximum building height 60 ft.

(C) The Following are Permitted Uses in CDD (Administrative Review):

1. Single-Unit Dwelling
2. Two-Unit Dwelling
3. Multi-Unit Dwelling
4. Residential Healthcare Facility
5. School and School Uses (see §31-203 Exemptions and Limitations)
6. Funeral Home
7. Day Care – Small
8. Community Facility (see §31-203 Exemptions and Limitations)
9. Bed & Breakfast
10. Office
11. Recreation Facility, Indoor
12. Recreation Facility, Passive
13. Industry, Cottage

(D) The Following are Conditional Uses in CDD (DRB Review)

1. Neighborhood Retail
2. Medical Clinic
3. Hotel/Inn/Motel
4. Restaurant
5. Bar
6. Nightclub
7. Clubs
8. Day Care – Large
9. Industry, Light
10. Skilled Nursing Facility
11. Recreation Facility, Outdoor

(H) Accessory Uses and Accessory Structures - See §31-412 and §31-413 for specific guidance.

## **ARTICLE IV GENERAL REGULATIONS**

### **§31-401 Lot Line Adjustments**

The Zoning Administrator may approve the realignment, relocation, or elimination of a boundary line between adjoining lots so long as it does not result in an increase in the number of lots, create or increase the degree of nonconformance of an existing lot, alter an approved subdivision plat or conditions of previous subdivision approval, or result in a transfer of more than 3 acres of land.

Boundary line or lot line adjustments shall be surveyed by a VT licensed surveyor prior to administrative approval. The Zoning Administrator may waive the requirement for a survey plat if the proposed boundary line adjustment involves only dissolving interior lot lines/merging adjacent parcels.

The issued zoning permit and survey shall be recorded in the town land records along with deeds of conveyance. The Zoning Administrator may refer complicated applications to the Development Review Board for §31-210 Site Plan Requirements and Review if deemed necessary.

### **§31-402 Required Frontage or Access To Public Roads**

No land development may be permitted on lots which do not have either frontage on a public road or access to a public road by a permanent easement or right-of-way at least 20 feet wide.

### **§31-403 Home Occupations** *(see Definition for additional guidance)*

Home occupations are permitted as an accessory use in all zoning districts. Home Occupations shall require a zoning permit.

Day Care Facilities and Residential Care Facilities shall be governed under other sections of this Ordinance, in keeping with the Act.

#### **(A) Standards for Home Occupations**

For all Home Occupations, the following standards apply:

1. The home occupation shall be carried out entirely within the principal and/or accessory structure(s);
2. The home occupation shall occupy no more than twenty-five percent (25%) of the combined areas of the principal dwelling unit and the accessory structure(s) used in the home occupation;
3. The home occupation shall be undertaken by the principal occupant of the dwelling unit in which the occupation is located, and a maximum of three (3) additional persons. In no case may the property owner or principal occupant of the dwelling unit rent out the area used for the home occupation.
4. The home occupation shall not produce excessive noise, smoke, odor, or other such nuisance; or generate hazardous waste as defined by these Regulations and applicable state and federal law.
5. The home occupation shall not produce mechanical noise audible beyond the property lines.
6. No home occupation may include on-premise retail sales other than clearly incidental and subordinate sales of products utilized in or produced through the home occupation.
7. Home occupations shall not entail any changes to the grading or landscaping of the property, or any exterior modifications to structures, that are inconsistent with the residential character and visual quality of the surrounding neighborhood and the zoning district in which the property is located.
8. Home occupations shall be limited to an average of ten (10) hours of active operation per day during which time deliveries, visitors or employees may come to or leave the premises.
9. Any home occupation anticipated to generate regular delivery or customer traffic exceeding the volume that would normally be expected in the neighborhood, or for which the use of on street parking is the source of a documented complaint by 2 or more neighbors, shall require Site Plan Review by the Development Review Board (DRB).

#### **(B) Review procedure for Home Occupations**

1. All Home Occupations require a zoning permit confirming that the use is in compliance with the above standards. A decision that a Home Occupation requires a permit shall be appealable to the DRB.
2. If DRB review is triggered, the DRB shall review applications for Home Occupations against the standards above.
3. In granting approval, the Zoning Administrator may impose conditions reasonably and proportionally related to the impact of a home occupation, including but not limited to requirements for dedicated off-street parking, landscaping and screening, or limitations

on the hours or intensity of a use where necessary to prevent impacts related to traffic, noise, visual impacts of parking, outdoor storage, and other such conditions as are necessary to ensure the proposed use meets the standards of this Section.

(C) Revocation of Home Occupation Permit

Should a use which was granted a home occupation permit no longer meet all of the standards for home occupation listed above, the zoning permit can be revoked by the Zoning Administrator. Such decision to revoke can be appealed to the Development Review Board.

**§31-404 Non-Conformities**

(A) Pre-Existing Small Lots (Non-Conforming Lots)

In accordance with 24 VSA §4412(2), any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Regulations may be developed for the purposes permitted in the district in which it is located even though not conforming with minimum lot size requirements.

(B) Nonconforming Uses

The following provisions shall apply to all uses of lands or improvements thereon, lawfully existing on the effective date of these regulations, which do not conform with the use requirements of the districts in which they are located. These provisions also apply to the uses of land or improvements thereon which may be rendered nonconforming by reason of amendment of these Regulations. It is considered desirable and in the best interest of the City of Rutland to encourage change of nonconforming uses to a more compatible use within the district. A nonconforming use may be continued subject to the following provisions:

1. *Expansion.* A nonconforming use shall not be expanded beyond the lot as it existed on the effective date of these regulations. The DRB may permit the expansion of the nonconforming use by up to twenty-five percent (25%) of the ground area in use at the onset of nonconformity, or of the floor space or structural capacity of the building then existing and housing said use.
2. *Change of use.* No nonconforming use shall be changed to another nonconforming use except with Conditional Use approval of the DRB, which must find that the proposed use is more appropriate and compatible to the zoning district than the existing use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.
3. *Interruption and resumption.* No nonconforming use shall be resumed if such use is discontinued for any reason for twelve (12) consecutive months, even if there was an intention to resume such use.
4. *Objectionable qualities.* No change or adjustment in size, intensity of use, or nature of use shall be granted that is deemed to increase the objectionable quality or qualities of the original non-conforming use including but not limited to, traffic, parking, noise, light and glare, hours of operation, unsightly storage or conditions, objectionable odors, neighborhood character, safety, overcrowding and pollution.

(C) Nonconforming Structures.

Any structure, group of structures, or parts thereof, existing on the effective date of these Regulations, that is not in conformity with them because of failure to meet their requirements of height or setbacks, but which conforms with all applicable laws, ordinances, or regulations in force prior to such effective date, may remain but shall not be moved, enlarged, altered, reconstructed, or restored except in strict compliance with the following:

1. *Enlargement, alteration and moving.* Any dimension or measurement may be increased or adjusted so long as the proposed expansion is not closer to the property line than the closest part of the existing nonconforming structure. Any extension that goes beyond the existing nonconforming setback shall require review by the DRB under § 31-411 Waiver of Dimensional Standards.
2. *Reconstruction, restoration.* A nonconforming structure that has been damaged or destroyed by fire, explosion, wind or other casualty may be reconstructed or replaced in the same footprint or in greater conformance with current regulations if reconstruction or replacement begins within twelve (12) months from the date of damage or destruction and is substantially completed within twenty-four (24) months of that date (exclusive of time delays due to local, state, or federal permitting processes). If such reconstruction is not undertaken within twelve (12) months, the structure shall be completely razed and cleaned up within eighteen (18) months of the damage. The DRB may extend the above time periods in cases of hardship or impracticability.
3. *Alteration in the regulated floodplain.* Nonconforming structures located within the regulated floodplain may not be altered, reconstructed or restored unless it is done so in compliance with floodplain regulations.
4. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-complying structure provided that such action does not increase the degree of non-compliance.

### **§31-405 New Construction**

1. Any new construction involving a structure or structures with a footprint exceeding 20,000 square feet, or the construction of 10 or more principal structures shall be subject to §31-210 Site Plan Requirements and Review.

### **§31-406 Mobile Home Parks**

#### **(A) General Provisions**

Each mobile home park and extension thereof shall comply with the following requirements:

1. A mobile home park shall be located on site so graded as to ensure drainage of surface and subsurface water, and freedom from stagnant pools.
2. A minimum of 5,000 square feet shall be provided for each mobile home lot or site within a mobile home park or extension thereof. Said lot shall have at least 40 feet frontage on the mobile home park road.
3. Each mobile home lot shall be defined by permanent corner markers, and provided with a permanently displayed number corresponding to the number shown on the plot plan.
4. No mobile home shall be located less than 15 feet from any mobile home lot boundary and no mobile home shall be located within 25 feet of any public street line. Each mobile home lot shall provide a rear yard of 20 ft.
5. All mobile home lots shall abut on a roadway of not less than 30 feet in width, if off-roadway parking for cars is provided, or not less than 40 feet in width where no off-roadway parking is provided.
6. All roadways within a mobile home park shall be well drained, provided with a gravel or hard surface, maintained in good condition and kept free of dust, mud or snow.
7. Any mobile home must be located on a substantial foundation, of sufficient height.

#### **(B) Health and Safety**

1. Each mobile home park shall be provided with a water supply pipe line connected with the City water system at the nearest practical point; and this pipe line shall be connected by pipes to each mobile home lot, and to each building other than a mobile home which requires water supply, each mobile home park shall be connected with the City sewage system; and connection shall be made by pipe to each mobile home lot. The construction and maintenance of such system shall be subject to the written approval of the commissioner of public works. No water supply from other sources than the City water system shall be permitted. No mobile home shall be occupied until it is connected with the water supply and sewer.
2. Water and sewer connections for each lot shall be so constructed that they shall not be damaged by the parking or removal of mobile homes. Said connections shall be approved by the commissioner of Public Works in writing.
3. Water supply to each mobile home park shall be metered; and the charges thereof shall be paid to the City by the licensee of the mobile home park.
4. Each mobile home shall be provided with an approved electrical connection.
5. Each owner/operator is responsible for the collection and disposal of garbage and other rubbish, and for the maintenance of other proper sanitary conditions, under the direction of the Health Officer. Each owner/operator is responsible for the prevention of fire hazards, under the direction of the Fire Marshall.
6. The space beneath each mobile home shall be completely enclosed with concrete block, masonry, or other fire-resistant noncombustible material. The building inspector shall be empowered to formulate specifications for the materials and construction details of such require enclosures. Such specifications and amendments thereof shall become a part of this ordinance.
7. Compliance with subsection (6) shall be compulsory within sixty days from the date the building inspector formulates specifications for materials and construction of such required enclosures for existing mobile homes. For all mobile homes located in mobile home parks after the effective date of this Ordinance, compliance shall be required immediately upon this location.

### **§31-407 Planned Unit Development (PUD)**

#### **(A) Purpose:**

To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open spaces, provisions of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area, as articulated in the municipal plan within the particular character of the site and its surroundings.

#### **1. Districts and Uses**

A Planned Unit Development may include within its area any permitted or conditional residential or nonresidential uses that are allowed in the underlying zoning district.

#### **2. Density and Dimensional Requirements**

- a. The minimum number of lots involved in the PUD shall be two (2).
- b. The minimum total acreage of all lots involved in the PUD shall be two (2) acres.
- c. All density and use standards of the underlying zoning district shall apply to the entire PUD development.
- d. The setback of the buildings and structures around the perimeter shall be determined based upon the topography taking into consideration the surrounding area and adjoining properties.

- e. Building height shall take into consideration the height allowed in the district of the development and the height of structures in the surrounding area.

### 3. Standards and Criteria

- a. Scenic assets and natural features such as the following shall be protected and preserved to the greatest extent feasible:
  - i. Areas of archeological or historic significance;
  - ii. Flood plains, streams, aquifer recharge areas;
  - iii. Unique or unusual topographical features;
  - iv. Individual trees or stands of trees of unusually large size or great age.
- b. The site shall be planned and developed in such a manner to reduce or eliminate negative impacts on surrounding property whether presently developed or not. This can be achieved through such techniques as buffer areas at the site perimeter, screening and landscaping and site design and layout and traffic calming techniques.
- c. The scale, setting and design of the development shall be in conformity and consistent with the surrounding neighborhoods, including, but not limited to, buildings, open space, landscaping and other features and characters.
- d. Integrated architectural design shall be used for buildings, structures, landscaping, and common open areas.
- e. When a PUD site includes a mixture of land uses, such as residential and/or recreational and/or commercial, the development of each use shall occur within a timetable that ensures that accessory buildings, shops are completed before or at the same time as the primary buildings (i.e. housing units).
- f. Principal vehicular access shall be from streets and roads that are capable of supporting existing and anticipated volumes of traffic, as well as traffic that will be generated by the development.
- g. Significant natural features such as woodland areas, large trees, natural watercourses and bodies of water, rock outcrops and scenic views shall be incorporated into common open space areas whenever possible.
- h. The development shall incorporate pedestrian walkways along roadways and nature paths when appropriate.

### 4. Joint Review

All proposed PUD's shall be subject to §31-210 Site Plan Requirements and Review. One zoning permit may be issued for multiple properties.

### **§ 31-408 Buffering**

When a proposed use is on a property that abuts property or properties in a zoning district where the proposed use is not allowed, the Zoning Administrator or Development Review Board may require conditions to protect the abutting property or properties, which may include increased setbacks, design criteria, screening, moving of the footprint of any structures, and location of curb cuts, and any other conditions the Zoning Administrator or Development Review Board may deem reasonable.

### **§ 31-409 Setback Relief**

In any residential district, a building or structure need be located only as far back from the street as the average of the front yard depth of the buildings or structures nearest on either side.

### **§ 31-410 Prohibited Uses**

Due to the nature, character and size of the City of Rutland, the following uses are prohibited with the entire City.

- A. Stock Car Races

### **§ 31-411 Waiver of Dimensional Standards**

In accordance with 24 VSA §4414(8), the DRB may grant a waiver of the dimensional standards of these Regulations. A waiver may be approved if it is determined that the grant of the requested waiver conforms to the criteria in this section.

- (A) The waiver is the minimum reduction in the dimensional requirement that will reasonably accomplish the purpose of the request.
- (B) The waiver will not result in a use or structure that is in conflict with the goals of the City of Rutland Municipal Plan, or with the purposes of the zoning district within which it is located
- (C) The grant of the waiver will not result in an undue adverse effect on any of the following:
  - 1. The character of the surrounding neighborhood, as the character is expressed in the purpose statement in these Regulations for the applicable zoning district;
  - 2. Traffic safety and circulation;
  - 3. The protection of public health and safety, or the provisions of public utility services;
  - 4. The function, quality or condition of existing water supplies, wastewater treatment or stormwater conveyance and treatment systems;
  - 5. The grant of the waiver will not result in shading or shadows on the adjacent properties.
- (D) Application and Review
  - 1. Application for waiver shall be made on a form specified by the City.
  - 2. All waivers will be reviewed by the Development Review Board in keeping with Site Plan Review hearing processes.
  - 3. In granting a decision in favor of the applicant, the DRB may attach conditions reasonably related and proportional to the potential impact of the approved activity including, but not limited to, mitigation through design modifications, landscaping and screening.
  - 4. Any waiver granted under this Section shall apply only to the application under which it has been granted. A waiver on one parcel or for one application shall not be construed as a general guideline or standard for other applications or parcels.

### **§31-412 Accessory Uses**

- (A) Accessory uses customarily incidental to a principal use are permitted on the same lot. See Definition section for further guidance.
- (B) Uses accessory to a conditional use are permitted only after conditional use review.
- (C) One Accessory Dwelling Unit located within or appurtenant to a single-unit dwelling is permitted. Such unit shall satisfy the following requirements:
  - 1. Must have sufficient wastewater capacity, as determined by Rutland City DPW.
  - 2. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater;



3. If located in a detached accessory structure, said structure shall conform to all dimensional requirements of a principal structure within the district.
4. The owner of the principal dwelling unit shall be a permanent resident of either the principal or accessory dwelling unit.

### **§31-413 Accessory Structures** *(see definition)*

- (A) The size of an accessory structure shall be no larger than 50% of the primary structure as measured by total square footage of each structure, unless a waiver is granted by the Development Review Board.
- (B) Accessory structures shall be no taller than 30' in height, unless a waiver is granted by the Development Review Board.
- (C) A detached accessory structure shall be placed not nearer than five feet (5') to any side or rear lot line except on a corner lot the side yard setback shall be fifteen feet (15') on the road side in the SFR district and ten feet (10') in all other districts.

### **§31-414 Unlisted Use**

- (A) If a use is proposed that is not specifically listed in a District but is substantially similar in nature and impact to a use permitted within that Zoning District, the Zoning Administrator is authorized to interpret the use as permitted.
- (B) If a use is proposed that is not specifically listed in a District but is substantially similar in nature and impact to a listed Conditional Use within that Zoning District, that use may be allowed as such upon review by the Development Review Board, so long as (a) such use is of the same general impact as those listed (b) the use in the proposed location satisfies the Conditional Use Criteria and (c) the use is not detrimental to other uses in the District as well as adjoining uses.
- (C) If a use is proposed that does not qualify under subsection (A) or (B) above but is substantially similar in nature and impact to a use permitted within the immediate neighborhood, this use may be reviewed by the DRB as a Conditional Use.

### **§31-415 Performance Standards**

- (A) Uses in all Zoning Districts shall not result in nuisance or undue adverse effect to adjoining properties with respect to:
  1. Exterior lighting
  2. Vibration
  3. Dust, fumes, vapors, gases and odors
  4. Erosion
  5. Stormwater Run-Off
  6. Contaminants
  7. Refuse Disposal
  8. Explosive Flammable Materials
- (B) The Zoning Administrator or DRB may impose conditions on development to further the purpose of this section.

## **ARTICLE V DEFINITIONS**

### **§31-501 Definitions**

**Accessory Dwelling Unit** A dwelling unit that is located within or appurtenant to a single-unit dwelling on an owner-occupied lot.

**Accessory Structure or building** A structure of greater than 150 square feet detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. The accessory structure (whether for dwelling purposes or not) shall be located on the same lot as the principal building. Prefabricated and kit structures of all kinds, including garden sheds and shipping containers, are considered accessory structures and subject to these regulations. Materials used for the structure and presence (or not) of a foundation do not alter this determination.

**Accessory Use** A use of land or property or a building, a portion thereof, whose area, extent or purpose is incidental and subordinate to the principal use of the building or land. The accessory use shall be located on the same lot. An accessory use may not be accessory to another accessory use.

**Architectural Review Committee** A committee consisting of the Zoning Administrator, two representatives of the Rutland Redevelopment Authority, two representatives from the Planning Commission who shall provide review within design control districts and provide a report to the Zoning Administrator or Development Review Board.

**Bar** An establishment where the sale and consumption of alcoholic beverages on premises are the primary activities.

**Bed and Breakfast** A dwelling in which the resident owner or permanent dwelling occupant provides short-term lodging and where only a morning meal is provided to overnight guests.

**Building** A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or personal property, including garages, carports, porches, terraces, decks or covered steps.

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

**Cemetery** Land or building used for the permanent internment of deceased persons or animals.

**Club, Private.** An establishment, or group of persons outside of a household, that operates for private social, recreational or educational purposes but usually and customarily is open only to members and not to the general public. Private clubs whose operations include the on-premise consumption of alcohol or other controlled substances shall require DRB approval of the use as a “bar” as well as a “private club.”

**Community Facility** Any private meeting hall, theater, event venue, museum, art gallery, library, or other similar type of establishment. (*see §31-203 Exemptions and Limitations*).

**Correctional Facility** Any building, enclosure, space or structure of or supported by the department of correction and used for the continued confinement of persons committed to the custody of the commissioner of corrections, or for any other matter related to such confinement.

**Day Care - Small** A State registered or licensed day care facility of no more than twenty (20) full-time children/adults where no playground equipment is located within the front yard. Conditional use review shall insure that adequate and safe drop-off/pickup space is provided and that traffic problems

are not created. Any additions, signage or site improvements shall be residential in character and no more than one residential unit may be converted for any single small day care center.

**Day Care - Large** A State registered or licensed facility providing day care services for children/adults without regard to the number served.

**Development** The division of a parcel into two or more parcels, the construction, 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.

**Design Review** Review by the Architectural Review Committee (see §31-209).

**Dwelling, Single-Unit** A building providing one dwelling unit.

**Dwelling, Two-Unit** A building or buildings providing two dwelling units.

**Dwelling, Multi-Unit** A building or buildings providing three or more dwelling units.

**Dwelling Unit** A building or portion thereof having independent cooking, bathing and sleeping facilities designated for occupancy as a residence.

**Family Childcare Home** A home or facility where the owner or operator is to be licensed or registered by the State for childcare. A family childcare home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. §3511(7), shall be considered to constitute a permitted use of property.

**Frontage** The length of any one property line of a premise which property line abuts a legally accessible right-of-way.

**Funeral Home** A building used for preparing the deceased for burial or cremation.

**Halfway House** A licensed home for persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

**Home Occupation (Home-Based Business)** Any use conducted entirely within a dwelling or accessory structures and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Home occupations shall be subject to the definitions and standards in these Regulations.

**Hospital** An institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and related support facilities and may include overnight care facilities.

**Hotel/Inn** A facility offering transient lodging accommodations on a daily rate to the general public and may provide additional services, such as restaurants, meeting rooms, and recreational facilities.

**Industry, Cottage** Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of small mechanical equipment which does not result in noise, fumes or storage beyond the structure within which the work is occurring.

**Industry, Heavy** (a) Manufacturing and other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides

and other hazardous materials, whether in the manufacturing process or stored or handled on site; or (b) enterprises involving substantial or frequent traffic by heavy trucks.

**Industry, Light** Manufacturing, assembly, packaging or other enterprises which do not result in noticeable external effects outside of the building in which the activities take place, which do not require outdoor storage, and which do not generate levels or intensities of truck traffic expected with a heavy industry use.

**Junkyard (Salvage Yard)** Any place of outdoor storage or deposit which is maintained, operated or used for storing, keeping, processing, buying or selling junk, or as a scrap metal processing facility. The term “junkyard” shall include any place of outdoor storage or deposit that is maintained or used for storing or keeping two (2) or more wrecked or disabled, unregistered and/or uninspected motor vehicles, trailers, campers and tow-behinds, or boats. This term does not apply to a commercial garage where wrecked or disabled motor vehicles are stored less than ninety (90) days for repairs.

**Lot** A platted parcel of land intended to be separately owned, developed or otherwise used as a unit.

**Lot Size** Total area within the property lines excluding any part thereof lying within the boundaries of an existing or proposed street.

**Medical Clinic** A non-residential office building used by members of the medical professions for the diagnosis and out-patient treatment of human ailments which does not include overnight care facilities.

**Mobile Home** A structure or type of modular or manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is (a) transportable in one or more sections; and (b) at least eight feet (8') wide or forty feet (40') long or when erected has at least three hundred twenty square feet (320 SF) or if the structure was constructed prior to June 15, 1976, at least eight feet (8') wide or thirty-two feet (32') long; or any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. (10 VSA § 6201(1)).

**Mobile Home Park** Any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate more than two mobile homes and shall be developed in accordance with §31-406.

**Motel** A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended, or used primarily for the accommodation of travelers and provides parking located on the premises. (See also Hotel/Inn)

**Neighborhood Retail** Any retail establishment offering for sale food products, household items and other goods commonly associated with the same, or services primarily for the immediate neighborhood but excluding the sale of pump-dispensed motor fuels.

**Nightclub.** An establishment in which dancing and musical entertainment is a principal use, often combined with the dispensing and/or consumption of alcoholic beverages on-site.

**Nonconforming Lot or Parcel** A lot or parcel that does not conform to the present bylaws covering dimensional requirements but which was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator. 24 VSA § 4303 (13).

**Nonconforming Structure or Use** A structure or part of a structure, or a use of land, that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. 24 VSA § 4303(14) and (15).

**Nonconformity, Degree of** The extent to which a structure encroaches upon, or otherwise violates, one or more dimensional standard of these regulations. Any extension of a structure that results in an additional encroachment of the non-conforming feature/element or the expansion of area occupied by a non-conforming use, increases the degree of nonconformity.

**Office** A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

**Principal Use** The main use of land or structures, as distinguished from an accessory use.

**Recovery Residence** A shared residence that supports individuals recovering from a substance use disorder, that has certification in accordance with the requirements stated in the Act. This shall be considered a permitted single-unit dwelling use.

**Recreation** Outdoor sports and activities such as skiing, hiking, tennis, golf, horseback riding, fishing, hunting, swimming, and similar activities, and structures necessary to and incidental to the actual carrying on of such activities.

**Recreation Facility, Indoor** A facility designed and equipped for the conduct of sports, leisure activities, and other recreational activities wholly within an enclosed building. Activities may be available on a fee or membership basis primarily for the benefit of persons not residing on the lot on which the facility is located. Indoor recreation structures may have accessory uses such as snack bars, locker rooms, spa facilities, and pro shops designed and intended for use by the patrons of the facility. Examples include, but are not limited to, fitness centers, indoor play areas, bowling alleys, gymnastics, dance studios, rock climbing walls, tennis or racquet courts and other similar uses.

**Recreation Facility, Outdoor** A facility designed and equipped for the organized or informal conduct of sports, leisure activities, and other recreational activities wholly or partially outside of any building or structure. Fields, trails, bodies of water, or other land may be used for recreational purposes. Associated structures may include swimming pools, tennis courts, baseball fields, soccer fields, skating rinks, skateboard parks, playground equipment, storage or other accessory buildings, and accessory uses such as snack bars, pro shops and locker rooms, event tents, and restaurants.

**Recreation Facility, Passive.** An area or facility designed and equipped for leisure pursuits that require no type of structure designed to enhance those activities, including but not limited to areas designated for cross- country skiing, snowshoeing, ice skating, cycling, fishing, swimming, hiking and running trails, and horse trails and riding rings.

**Residential Care Home** A residential care home or group home operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. §4501, shall be considered by right to constitute a permitted single-unit dwelling use.

**Residential Healthcare Facilities** A facility for the transitional residency of elderly and/or disabled persons, progressing from independent living in single-family units to congregate apartment living where residents share common meals and culminating in a full health and continuing care nursing home facility.

**Restaurant** A public eating establishment in which the primary function is the preparation and serving of food.

**Retail store** Any business concerned primarily with the sale of goods or services.

**School** A privately owned facility that provides a curriculum of state-certified pre-school, elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and institutions of higher learning (*see §31-203 Exemptions and Limitations*).

**Screening** The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include, but are not limited to: fences, walls, hedges, berms or other features.

**Self-Service Storage Facility** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractor supplies. This use shall be considered a retail use.

**Service Station** Any premises where gasoline and other petroleum products are sold and/or vehicular or mechanical maintenance activities are conducted.

**Skilled Nursing Facility** A facility in which skilled nursing and residential care is provided to individuals with chronic physical or mental impairments, or where in-patient rehabilitation services requiring skilled nursing and residential care are provided for a period of time to individuals recovering from an acute ailment.

**Stock Car Races** A race that features cars that conform externally to standard US commercial models and having the basic chassis of a commercially produced assembly line model and are raced in competition with each other on a track.

**Structure** An assembly of materials for occupancy or use, including but not limited to a building, mobile home, wall or fence, swimming pool, pond, curtain drain, standpipe, free-standing satellite dish with a diameter greater than thirty-six inches (36”), bridge, boardwalk, dock, deck, or porch.

**Temporary Structure** A structure intended to be used for a temporary period, such as a replacement structure for use during renovations or rebuilding, or a structure used for storage of construction materials or as a mobile office during renovations or rebuilding.

**Warehousing and Distribution** A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

# **CITY OF RUTLAND, VT - LAND DEVELOPMENT REGULATIONS**

## **Appendix A – Architectural and Design Guidelines**

### ***Downtown Business District***

#### **Statement of Purpose**

The City of Rutland Zoning Regulations stipulate that proposed plans for the Downtown Business District be reviewed by the Architectural Review Committee prior to permitting and construction.

These guidelines define the context in which proposed designs will be reviewed. Architectural planning and design issues of importance to the City are outlined in this document and should be discussed with the Zoning Administrator in a pre-design conference before any design work is undertaken.

Designs will be reviewed against the criteria set down in the following sections. The overall intention of architectural review is to assure that individual buildings contribute to forming a coherent environment in the downtown that is consistent with the best qualities of existing buildings. However, designers are urged to interpret the design guidelines in contemporary ways rather than slavishly imitating existing buildings. Judgements of the adequacy of proposed designs inevitably involve subjectivity and tradeoffs in view of financial necessities. The intentions of the Redevelopment Plan and the specific context of the proposed structure will be important in judging the acceptability of a proposal.

#### **Historical Context**

From the 19th century through the 1950's the bulk of the Downtown Plaza Area was a large railroad yard, complete with passenger and freight terminals, switching yards and repair facilities. The remaining parcels were primarily industrial and commercial sites.

Downtown Rutland thus has always been oriented toward an open, expansive space at its center. Although surrounded by rail yards, the train station was well kept and attractively landscaped. Rutland was a city where railroads and industry were part of the daily fabric of life, so provisions were made for the human as well as industrial needs.

Redevelopment of the area is not intended to create a tightly structured street grid, as exists in the downtown east of the area. Instead, the Plan seeks to re-establish public parks and spaces in the center of town and encourage buildings that are properly viewed across open space.

Indeed, the facades of the 100 block of Merchants Row, generally regarded as the architectural signature of downtown, was designed to be viewed across such an open space and would be diminished if overshadowed by new structures immediately across the street.

Rutland's central business district grew in response to the location of the railroad tracks. Today, with the tracks largely gone, downtown is left with two distinct areas: a traditional street grid lined with well-preserved late 19th century commercial buildings and an open area with few pre-existing land use constraints.

Downtown Rutland's distinctive building stock is based on well built, practical commercial structures - functional and without pretense. In many regards they define Rutland itself. New structures should be designed to complement the spatial openness of downtown and maintain the tone of a practical, working city.

Downtown Rutland is an established National Historic Preservation District. The stock of late 19th

and early 20th century commercial buildings is Rutland's major architectural asset. All designs will, first and foremost, be reviewed for their contribution to the enhancement of this established architectural mix.

### **General Design Principles**

"Imitation" historic designs are discouraged. New structures should present a pleasing visual effect viewed side by side with existing buildings but are not required to attempt wholesale mimicry of those buildings. This juxtaposition defines the central design context in which plans will be reviewed: the design's ability to serve current commercial needs in a manner that complements the existing building stock.

Two categories of site frontage are used to determine treatments for facades and landscaping: A) Public Access areas, such as major streets and major pedestrian approaches to buildings, and B) Service Access, which includes loading and general service areas for buildings. The specific classification of frontage within the parcels will be set at the pre-design review session, as frontage requirements will change depending on the division of parcels.

In general, Public Access frontage will be seen and used by the general public, and must be designed to a higher level of architectural detail than the Service Access frontage, which is out of the flow of public traffic and thus more hidden from public view.

All proposed redevelopment projects must demonstrate that the needs for employees, customer or resident parking are accommodated on the redevelopment site or provided in a dedicated off-site parking area. Aside from customer parking at curb-side metered spaces, parking for redevelopment projects will not be permitted to spill over onto surrounding streets.

### **Design Objectives**

The primary function of a commercial building is to provide a good environment for commerce. Designs must provide effective commercial spaces that encourage customer traffic and public interaction.

The street level presentation of buildings is extremely important. Buildings must relate constructively with public spaces such as streets and parks. From any vantage point around the building a pedestrian or passing motorist must be able to clearly understand the function of that building and see an easy, attractive path to gain access to the building.

Building designs are expected to emphasize the visual and commercial effect of their primary orientation but should also present well-structured solutions for the aesthetics of secondary approaches. Placement of primary and secondary orientations are critical to the success of the design. All four building elevations will be reviewed with consideration to this issue.

Buildings will be sited and massed so that they do not overpower existing buildings or create extreme shadows on major public areas. All plans for the Downtown Plaza Area will be reviewed for their relationship to the facades of the east side of Merchants Row, acknowledged here as the architectural centerpiece of downtown Rutland.

Building materials will be reviewed for their contribution to a pleasing look for the overall Area. The existing buildings contain a variety of materials and colors, so other than to state a preference for brick, the guidelines do not specify certain required materials.

Recessed windows and punched windows are desirable for buildings in the historic district, as they complement the windows of the existing buildings in the historic district along Merchants Row and Evelyn Street.



Parking areas must be reasonably landscaped and must be visually compatible with surrounding buildings and public spaces.

All building designs will strive to preserve the quality of public open spaces. Siting of buildings in relation to angles of sunlight is of prime importance. Public spaces must be provided with adequate exposure to natural light.

Any land not covered by buildings or pavement shall be suitably landscaped and maintained. All landscaped areas shall be maintained in good condition to prevent presence of dead shrubs and trees, un-mowed grass areas and overgrown or unkempt planters.

Extended, windowless walls on a public access frontage must incorporate design elements to break the visual expanse of the blank wall. When feasible, this same objective may be attained through landscape design.

### **Design Prohibitions**

- Mirrored or heavily tinted glass is prohibited at street level.
- Landscaping treatments that block store windows or inhibit the normal flow of pedestrian traffic are prohibited.
- Parking areas located between the street and the principal building are prohibited.

### **Review Process**

All proposals and plans must be submitted to the Zoning Administrator. They will be reviewed by an Architectural Review Committee made up of the Zoning Administrator, two representatives from RRA, and two representatives from the Planning Commission. The Committee will report its findings to the Zoning Administrator, who will then convey a final ruling to the applicant.

There are three levels of review for all proposed renovation and new construction projects:

1. Pre-design conference: Project developers and their architects must meet with the design review committee prior to the start of any project design work in order to review these guidelines and discuss the implications of these stated policies for the proposed project. The pre-design conference may be conducted by the Zoning Administrator.
2. Schematic design: The schematic design for the project, complete with site plans and elevations must be reviewed and approved. These plans must indicate the building's relationship with all surrounding properties and the treatment of landscaping and parking areas. At this stage, a preliminary review will also be conducted to determine compliance with City codes. Applicants will be informed in writing within 30 days whether the design has been approved, conditionally approved with specific required changes or disapproved. If disapproved, specific reasons will be provided to the applicant in writing. Applicants who believe that approval has been unreasonably withheld may appeal the decision to the Planning Commission, which may form a special review committee to hear the appeal.
3. Final project approval: Final construction documents for the project, and samples of major exterior materials and colors, must be approved prior to permits being issued. As in 2, above, applicants 1) will be informed in writing within 30 days whether the design has been approved, conditionally approved or disapproved, and 2) shall have the right to appeal the decision.

For some smaller projects it may be possible to combine the concept review and the final project review.

# CITY OF RUTLAND, VT - LAND DEVELOPMENT REGULATIONS

## Appendix B - Subdivision

[Title 31, Chapter 3]

### Subchapter 1. Purpose and Definitions

#### § 6001. Purpose.

These subdivision regulations for the City of Rutland are hereby established in accordance with the Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Chapter 117(the “Act”).

#### § 6002. Definitions.

For the purpose of these regulations, certain words used herein shall be defined as follows:

**Administrative Officer.** The City of Rutland Zoning Administrator.

**Comprehensive plan or plan.** The municipal development plan for the city and any amendment thereto, as defined and adopted under the Vermont Planning and Development Act.

**Construction drawing.** The drawing showing location profile, grades, size and type of drains, sewers, water mains, underground utilities, pavements, cross-section of streets, miscellaneous structures, etc.

**Easement.** Authorization of a property owner for the use by another and for a specified purpose, of any designated part of his property.

**Final subdivision plat.** Final drawings on which the subdivision is presented to the DRB for approval for which, if approved, shall be filed for record with the city clerk.

**Location maps.** A map showing the relation of the proposed subdivision to adjacent properties and the surrounding area.

**Development Review Board or DRB.** The Development Review Board of the City of Rutland.

**Preliminary subdivision plat.** The preliminary drawing for a major subdivision, indicating proposed layout of the subdivision to be submitted to the DRB for its consideration.

**Private streets.** Any road, lane, or way, intended for vehicular access purposes, which serve a subdivision (as defined herein) and is neither owned nor maintained by the city.

**Re-subdivision.** Amended subdivision.

**Sketch plan.** An informal sketch of the proposed subdivisions, the purpose of which is to enable the subdivider to save time and expense in reaching general agreement with the DRB as to the form of the subdivision and objective and requirements of these regulations.

**Street.** Any road, highway, avenue, street, parkway, lane or other way between right-of-way lines.

**Street, minor.** A street intended to serve primarily as access to abutting residential properties.

**Street, major.** A street which serves or is designed to be used primarily as a route for traffic between communities or major development areas.

**Street, secondary.** A street which serves or is designed to carry traffic from local residential streets to the system of major streets, or which serves abutting non-residential uses or districts.

**Subdivider.** Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for himself or others. The term shall include an applicant for subdivision approval.

**Subdivision.**

1. The division of any parcel of land for other than agricultural or forestry purposes, with or without streets, into two (2) or more legal divisions of land for immediate or future transfer of ownership, which results in the creation of one or more improvable parcels of less than twenty-five acres.
2. Any development of a parcel of land such as a commercial or industrial complex, multi-family project, planned unit development or planned residential development; including commercial or residential condominiums.
3. Division of land such as for minor realignment of property lines, for municipal purposes which conform to the comprehensive plan (such as road widening, easements, sidewalks, parks, etc.), or enlargement of existing lots, shall not be deemed a subdivision, provided that no new developable lots result.

**Subdivision, major.** Any residential subdivision containing four (4) or more lots, any non-residential subdivision or any subdivision requiring any installation of new streets, or the extension of any municipal facilities, or any shopping complex, multi-family housing, planned residential development, or planned unit development, including condominiums.

**Subdivision, minor.** Any residential subdivision containing less than four (4) lots, which does not require a new public street or extension of municipal facilities. Minor subdivisions may combine preliminary plat review and final plat review in one hearing.

**Vicinity map.** A detailed map which shows, within a prescribed area, the relation of the proposed subdivision to adjacent properties and the surrounding area, indicating curb cuts, property and building lines, streets, easements, etc., and municipal boundaries, if within 500 feet.

**§ 6003. Other definitions.**

Unless otherwise defined herein, the definitions contained in the Act and the City of Rutland zoning regulations shall apply to these regulations.

**Subchapter 2. Submission and Review of Plans****§ 6011. Reserved****§ 6012. Application for approval of preliminary plat**

The subdivider shall file an application for the approval of a preliminary plat with the administrative officer. Said application shall include the following:

1. Preliminary map. The preliminary map shall consist of one or more maps or drawings which shall be 18" x 24" or 24" x 36" in size with all dimensions shown in feet or decimals of a foot, drawn to a scale of not less than 100 feet to the inch, or not more than 40 feet to the inch where lots have less than 100 feet frontage, showing or accompanied by the following information:
  - (a) Proposed subdivision name or identifying title and the name of the city.
  - (b) Name and address of owner of record, subdivider, and designer of preliminary plat.
  - (c) Number of acres within proposed subdivision, location of property lines, structures, watercourses, wooded areas, and other essential existing physical features.
  - (d) Names of all subdivisions immediately adjacent and names of owners of record of adjacent acreage.
  - (e) Location and size of existing sewers and water mains, culverts and drains on the property or serving the property to be subdivided, showing depths of pipe and directions of flow, if known.

(f) Location, names and widths of existing and proposed streets, private ways, sidewalks, curb cuts, paths, easements, parks and other public or privately maintained open spaces, as well as similar facts regarding adjacent property.

(g) Contour lines at 5 foot intervals based on U.S. Geological Survey datum of existing grades and also of proposed finished grades where change of existing ground elevation will be five feet or more. Contour intervals closer than five feet may be required by the DRB in order to properly evaluate specific aspects of the project, such as storm drainage, landscaping, etc.

(h) Complete survey of subdivision tract by licensed land surveyor.

(i) Numerical and graphic scale, date, and true and magnetic north arrow.

(j) Details of proposed connection with existing municipal water supply or alternative means of providing water supply to the proposed subdivision.

(k) Details of proposed connections with existing sanitary sewage disposal system or adequate provision for on-site disposal of septic wastes

(l) If on-site sewage disposal system is proposed, location and results of tests to ascertain subsurface soil, rock and ground water conditions, depth to ground water unless pits are dry at depth of five feet; location and results of percolation tests, all in accordance with applicable state regulations or standards.

(m) Drainage plan, indicating provisions for collection and discharge of storm drainage.

(n) Preliminary designs of any bridges or culverts which may be required.

(o) Location of temporary markers adequate to enable the DRB to readily locate and appraise the basic layout in the field. Unless an existing street intersection is shown, distance along a street from one corner of the property to the nearest existing street intersection shall be shown.

(p) All parcels of land proposed to be dedicated or reserved for public use and the condition of such dedication or reservation.

(q) List of waivers subdivider desires from requirements of these regulations.

(r) General description of type of development to be built.

(s) A registered mailed receipt from each record owner of all adjacent parcels of land and a copy of the letter sent to each such record owner of all adjacent parcels of land, the content of which letter should include notice to the adjacent land owners of the applicant's intent to subdivide, the location of the proposed subdivision, the intended project for use to be developed in and on the subdivision subdivided parcels, the date, time, and location of the first public hearing to be held by the DRB.

2. Vicinity map. The vicinity map which shall be 18" x 24" or 24" x 36" in size, which shall be prepared from existing surveys or public records, shall show relative of the proposed subdivision to adjacent properties and to the general surrounding area. The vicinity map shall include the following:

(a) All existing subdivisions, approximate tract lines and acreage of adjacent parcels, together with names of record owners of all adjacent parcels of land, namely those directly abutting or directly across any street adjoining the proposed subdivision.

(b) Locations, widths and homes of existing, filed, or proposed streets, curb cuts, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in paragraph 1 above.

(c) An outline of the plated area together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the preliminary plat submitted covers only part of the subdivider's entire holding.

**§ 6013. Public hearing on preliminary plat.**

A public hearing on the preliminary plat shall be held by the DRB within thirty (30) days after the time of its submission to the administrative officer. Said hearing shall be advertised and warned in accordance with the public notice provisions of the Act.

**§ 6014. Approval of preliminary plat.**

Within 45 days after the public hearing on a preliminary plat, the DRB shall approve, modify and approve, or disapprove said preliminary plat and the ground for any modification(s) required or the grounds for disapproval shall be stated upon the records of the DRB. Failure of the DRB to act within said 45-day period shall constitute an approval of the preliminary plat. When granting approval to a preliminary plat, the DRB shall state the conditions of such approval, if any, with respect to the specific changes which it will require in the preliminary plat.

The amount of improvement or the amount of all bonds which shall be required shall be set prior to the final subdivision plat approval in accordance with §6056. The subdivider shall estimate the cost of improvements, and the Board of Aldermen shall set the amount of the bond.

Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat. Prior to approval of the final subdivision plat, the DRB may require additional changes as a result of further study of the subdivision or as a result of new information obtained at any public hearing held pursuant to these regulations.

At the time the DRB grants preliminary plat approval, it may permit the plat to be divided into two or more sections (for phased development) subject to any conditions the DRB deems necessary in order to insure the orderly development of the plat. The applicant may submit a section of the approved preliminary plat for final approval if said section constitutes at least 25% of the lots or floor area in the approved preliminary plat. Under these circumstances, preliminary approval on the remaining sections of the plat shall remain in effect for three years from the date of the preliminary plat approval or a period of time mutually agreed to by the DRB and the applicant.

**§ 6015. Application for approval of final plat**

The subdivider shall, within 18 months after approval of the preliminary plat, submit an application for approval of the final subdivision plat to the administrative officer. The final plat application may be submitted in sections in accordance with section 6014 so that it shall only include the phase of the approved preliminary plat which the subdivider proposes to record and develop at that time. If the final plat, or the first section thereof, is not submitted to the DRB within 18 months after the approval of the preliminary plat, the DRB may refuse without prejudice to act on the final plat and require resubmission of the preliminary plat. The final plat application shall include the following:

1. Final plat: The subdivision plat which shall be 18" x 24" or 24" x 36" in size, shall conform in all respect to the preliminary subdivision plat as approved by the DRB and shall show:
  - (a) Proposed subdivision name or identifying title, name of the city, name and address of record owner and subdivider, name, license number and seal of licensed land surveyor, boundaries of the subdivision and its general location in relation to existing streets or other landmarks, scale (numerical and graphic) date true and magnetic north arrows.
  - (b) Street names and lines, pedestrian ways, lots reservations, easements, and areas to be dedicated to public use.

(c) Sufficient data acceptable to the city engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. These shall be tied to existing reference points acceptable to the city engineer.

(d) The length of all straight lines, deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.

(e) By proper designation on such plat, all public space for which offers of cession are made by the subdivider and these spaces title to which is reserved by him.

(f) Lots within the subdivision numbered in numerical order within block, and blocks lettered in alphabetical order.

(g) The location of all improvements referred to in section 5821 and in addition thereto the location of all utilities, sewage disposal systems, water supply systems and rough grading and other devices and methods of draining the area affecting the subdivision.

(h) Permanent reference monument shown thus: "X"; and lot corner markers shown thus "O".

(i) Construction drawings of all required improvements.

2. Supporting documents:

(a) Copies of such covenants or deed restrictions as are intended to cover all or part of tract.

(b) Prospectus describing management organization, of one is required.

(c) In the case of a subdivision or development served by a privately owned and/or maintained street: A completed contract between city and landowner regarding the number of lots or dwelling units to be served by the proposed right-of-way or private street, and the responsibility for roadway maintenance, with city attorney's certificate that the contract is satisfactory.

**§ 6016. Public hearing on final plat.**

A public hearing shall be held by the DRB within thirty (30) days after the time of submission to the administrative officer of the final subdivision plat for approval. Said hearing shall be warned in accordance with the public notice provisions of the Act. In addition, notice of such hearing shall be forwarded to the Rutland Regional Planning Commission and to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary at least 15 days prior to the hearing.

**§ 6017. Action by Development Review Board.**

The DRB shall, within 45 days after the public hearing held under section 6016 of these regulations, approve, modify and approve, or disapprove such plat. Failure to act within 45 days shall be deemed approval.

**Subchapter 3. Required improvements**

**§ 6021. Reserved.**

**§ 6022. Installation - design standards.**

All required improvements shall be designed and installed in accordance with the design standards, development requirements, specifications and procedures set forth in these regulations and standards. Said installation and design standards apply to both public and privately owned required improvements.

**§ 6023. Modification of design**

If at any time after approval before or during the construction of the required improvements, it is demonstrated that unforeseen conditions make it necessary to modify the location or design of structures, curb cuts, roads, or parking lots, the DRB may, with the concurrence of the Zoning Administrator, authorize minor modifications, provided that they are within the spirit and intent of the DRB's approval and that they do not alter the function of any improvements previously required by the DRB.

**§ 6024. Inspection of improvements**

At least seven days prior to commencing construction of any required improvement(s), subdivider shall advise the Zoning Administrator, in writing, when the construction of required improvement(s) shall begin, so he can inspect during the construction process to assure satisfactory completion of improvements or stipulations required by the DRB.

**§ 6025. Proper installation**

Prior to construction of required improvements, developer shall submit contract documents and working drawings, certified by a registered engineer, for the required improvements to Zoning Administrator for approval. If requested by the developer, the Zoning Administrator shall make reasonable periodic inspections and, as soon as possible, in writing, notify developer of any deficiencies found. Within 30 days of completion of improvements, developer shall submit to the Zoning Administrator as-built construction drawings, certified by a registered engineer. The Zoning Administrator, in consultation with the City Engineer, shall then inspect required improvements within 45 days after said submission and determine if all required improvements have been constructed in accordance with the submitted drawings and the final plat approval. The Zoning Administrator shall report findings within 30 days of his inspection. In the event deficiencies are found and not remedied by developer, the Zoning Administrator may notify the bonding company and take all necessary steps to preserve the city's rights under any performance bond required under §6056. If all required improvements are found to be properly completed, The Zoning Administrator shall release the performance bond.

**Subchapter 4. Development Requirements****§ 6031. Streets**

1. Arrangement: The arrangement of streets in the subdivision shall provide for the continuation of streets of adjoining properties and for proper projection of streets necessary to make possible fire protection, movement or traffic and construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and draining facilities. Where, in the opinion of the DRB, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.
2. Topography: Streets shall be logically related to the topography so as to produce usable lots and safe intersections in appropriate relation to the proposed use of the land to be served by such streets. The maximum grade for street should be 8% unless the DRB and city engineer approve a higher grade. Adequate provisions shall be made to control the drainage of each street by an adequate storm water system, subject to approval of the DRB and city engineer.
3. Streets names: Streets shall be identified by name on the proposed plat. Proposed streets which are obviously in alignment with others already existing and names shall bear the names of existing streets. In no case shall names for proposed streets duplicate existing street names within the local zip code district irrespective of the suffix, be it street, avenue, boulevard, driveway, place or court.

4. The board of Highway Commissioners shall have the authority to designate or redesignate by name, streets in the city.
5. Street signs: All street signs and posts shall be provided and installed by the city.
6. Cul-de-sac: A cul-de-sac is a dead end street, terminating in a turnaround at one end and a secondary or major street at the other, which is not intersected by any other streets or ways. Cul-de-sac streets shall be permitted only in residential districts and the length of a cul-de-sac shall not exceed ten times the minimum required lot frontage for the district(s) involved. The number of dwelling units served by a cul-de-sac or by a system of streets sharing a common single access to a major or secondary street shall not exceed 5- unless additional connections to other streets are approved by the DRB after consultation with the city engineer.
7. Access: Adequate provisions shall be made for the regulation of general traffic access to the proposed subdivision or development. Entrances and exits for motorized vehicles shall be designed to minimize hazards to pedestrians. Paved access for emergency vehicles shall be provided to within 100 feet of the principal entry for multi-family dwellings and commercial, industrial and institutional establishments.  
  
All streets and highways shall be of sufficient width and suitable grade and be so located to facilitate fire protection.
8. Streets: All streets shall be completely constructed by the subdivider. Street construction shall be at the sole expense of the developer.
9. Sidewalks: Sidewalks shall be installed along the sides of streets, as determined by the DRB. Sidewalk provisions may be waived by the DRB if such waiver is in the best interest of the city.

#### **§ 6032. Lot layout**

Lots shall be laid out in such a way that they can be developed in full compliance with zoning regulations, and give consideration to topography, soils and drainage conditions. Corner lots shall have extra width to conform to setbacks on each street. No subdivision showing any reserved strips shall be approved.

#### **§ 6033. Pedestrian access**

Permanent pedestrian easements, may be required by the DRB to facilitate pedestrian circulation within the subdivision or access to adjoining neighborhoods and public property or community focal points such as parks, schools, and other public property, shopping centers, centers of employment, and community recreation facilities, etc.

#### **§ 6034. Water**

The existing public utility system shall be extended so as to provide necessary quantities of water, at acceptable pressure. Construction shall conform to city water department requirements.

The developer may be required to design and install water mains and appurtenances of larger size than immediate needs of his development would require to conform to the city water department master plan for water main sizes to give service to future development. Developer shall pay all handling and laying costs. Should nearest pipes servicing development area not be large enough, subdivider shall pay for and install proper sizes at its expense, unless the board of aldermen authorizes city to pay part or all of such expense.



**§ 6035. Fire protection**

The layout of the subdivision shall be reviewed by the fire chief or his designee to insure that adequate fire protection can be provided. This review shall include, but not be limited to, minimum distance between structures, street width, vehicular access from two directions where possible, looping of water lines, water flow and pressure, and number and location of hydrants. All aspects of fire protection systems shall be designed and installed in accordance with applicable codes in areas served by municipal water.

**§ 6036. Sewage disposal**

Off-site - Subdivider shall connect to the public sewer system. The subdivider is required to provide such pumping and other facilities as may be necessary. Developer may be requested by the DRB or city engineer to over-design and over-build said utilities or portions thereof so that future users may connect onto the system. City shall pay the difference between the cost of improvements necessary for the subdivision and cost of over-designing and over-building. Costs of over-designing and over-building shall be confined to difference in material costs of pipe and structure sizes. The difference in costs of handling and laying of various sizes of pipe shall be borne by the developer. Should nearest pipes servicing development area not be large enough, subdivider shall pay for and install proper sizes at its expense, unless the board of aldermen authorizes city to pay part or all of such expense.

On-site - Sewage disposal facilities shall be designed and installed in accordance with all applicable local and state regulations and standards. Community sewer systems shall be designed in such a way that they may eventually be connected to the municipal sewer system.

**§ 6037. Utility lines**

Electric, telephone and cable telecommunications distribution systems may be underground or aboveground, at option of developer. All work is to be coordinated with utility company, both for subdivision and areas adjacent to subdivision.

**§ 6038. Outdoor lighting**

Illumination of areas such as streets, sidewalks, driveways, parking areas, loading and unloading areas, principal entryways and/or other locations shall be provided in accordance with the recommendations of the DRB, and in compliance with the performance standards of the Zoning Regulations. Subject to approval by the Board of Aldermen, the city may furnish lights on utility poles. Subdivider shall furnish poles, fixtures, and any lights not provided by city.

**§ 6039. Storm drainage**

A. Removal of spring and surface water. The subdivider shall remove any spring or surface water that may exist, either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width as specified by the city engineer, and shall be designed to standards approved by the city engineer. In design of the drainage system, natural waterways and drainage ways shall be utilized to the fullest extent possible.

B. Drainage structure to accommodate potential development upstream. Culverts or other drainage facilities shall, in each case be large enough to accommodate potential run-off from inside or outside the subdivision. The DRB shall approve the design and size of facilities based on anticipated run-off under conditions of total potential development. The subdivider's engineer shall provide such information as the adequacy of the facilities. Developer's engineer is to certify that culverts or other drainage facilities are large enough to accommodate potential run-off from inside or outside the subdivision. Certification shall be in a form acceptable to the commissioner of public works and city engineer.

C. Responsibility for drainage downstream. Subdivider's engineer shall provide such information as the DRB and city engineer deem necessary to determine the effect of the subdivision on existing downstream drainage facilities outside the area of the subdivision. Where the city engineer advises that additional run-off incident to development of the subdivision will overload an existing downstream drainage facility so there will be damage to private property or an increase in expenditures of public funds. The DRB shall not approve the subdivision until the subdivider and board of aldermen agree to allocation of the costs of improvement. Developer's engineer is to certify that additional run-off incident to the development will not overload existing downstream drainage facilities.

#### **§ 6041. Open space and recreation areas**

Land with adequate access to and from public streets shall be reserved for open space and recreational area as deemed necessary in proper cases by the DRB in any plot submitted for approval. The DRB may waive this requirement concerning recreation lands.

#### **§ 6042. Site preservation and landscaping**

A. Existing features. The preservation of site amenities such as trees, brooks or drainageways, historic sites, and other unusual features which the DRB feels are an asset to the site and/or community, shall be required insofar as possible through harmonious design and appropriate construction methods.

B. Natural cover. Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours and conserve the natural cover and soil. After application for approval has been submitted to the DRB, no topsoil, sand or gravel shall be removed from the subdivision for any purpose other than to meet construction needs of that particular subdivision or to meet any requirements of these regulations.

C. Erosion and sediment control. The smallest practical area of land should be exposed at any one time during development. When land is exposed during development, the exposure should be kept to the shortest practical period of time. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the DRB to protect areas exposed during development. Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained during development to remove sediment from runoff water and from land undergoing development. The permanent final vegetation and structures should be installed as soon as practical in the subdivision. Adequate and permanent measures shall be taken at culvert outfalls to minimize or prevent erosion and disruption of drainageway areas. All responsibility for damage or other problems caused by erosion associated with the development shall rest with the developer.

D. Landscaping. Suitable hardwood shade trees shall be planted along both sides of streets or private ways where there are or would otherwise be no trees. All trees shall measure at least three inches in diameter. Final choice of tree species and exact plant locations are subject to recommendations of the City Forester.

#### **§ 6043. Excavation and grading**

A. General. All excavating and filling required for construction of improvements shall be as specified within this section. The entire area of work shall be brought to the required lines and grades by excavation or filling. Excavation material, if suitable, may be used in making embankments and in filling low areas. A minimum of four (4) inches of top soil shall be provided to cover overall finished slopes. This material shall be spread uniformly over all finished slopes. All streets shall be graded from property line to property line to approved grade and cross section.

B. Fill. No stumps, wood, roots, sod, other fibrous or organic material or refuse shall be used as fill. In those locations where the alignment crosses swamp or marsh land, or other similar soil that is incapable of withstanding expected loads, such inadequate soils shall be entirely removed and replaced with adequate material. The materials so removed shall not be placed in embankments, but may be used in flattening embankment slopes or for filling low spots outside the road section. The DRB may require the developer to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within the road section.

C. Embankments. Embankments shall be formed of suitable and acceptable excavated materials and brought to the required lines and grades. The materials for embankment shall be placed in successive horizontal layers not exceeding six (6) inches in depth, extending across the entire fill area. They shall be spread by a bulldozer or other acceptable method and shall be thoroughly compacted. Where embankments are made of rock, the rock shall be deposited that all voids are filled with earth and in such a way that the compaction specified above may be secured.

D. Subgrade. Upon completion of filling and excavation, the subgrade shall be formed to the required grade and contour, and the entire surface again rolled as specified above. High spots shall be removed and low spots filled with the acceptable material and the process of leveling and rolling continued until no further depression results.

E. Side slopes. Side slopes in embankment and on roadside drainage ditches shall descend one (1) foot vertically for at least each two (2) feet horizontally (1 on 2). Surplus materials resulting from excavation of the road prism shall be used to flatten slopes of embankment so that they ascend one (1) foot vertically for at least two (2) feet horizontally (1 on 2). Side slopes in excavation rock shall ascend six (6) feet vertically for at least each one (1) foot horizontally (6 on 1). Where rock cuts have a face higher than ten (10) feet vertically, a three (3) foot berm shall be provided at each ten (10) foot level above the grade at the edge of the pavement. Side slopes shall not be graded so as to extend beyond the limits of the road right-of-way onto land not part of the subdivision unless a suitable slope easement has been properly established and granted by the affected property owner.

#### **§ 6044. Utility Easements**

Easements of sufficient width shall be provided in locations acceptable to the DRB, in consultation with the City Engineer so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision.

#### **§ 6045. Assessment of development impact**

The DRB shall evaluate any proposed major subdivision according to the following standards. In light of findings made on these standards, the DRB may require reasonable modification or appropriate phasing of the proposed subdivision.

1. Will not result in undue water or air pollution. In making this determination it shall consider: elevation of land above sea level in relation to flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; slope of the land and its effect on effluent; applicable health and water resource department regulations.
2. Does have sufficient water available for reasonable foreseeable needs of the development.
3. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
4. Will not cause unreasonable highway congestion or unsafe conditions with respect to use of highways existing or proposed. Plan must be approved by city engineer.

5. Will not have undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural area.
6. Efficiency of allocation and distribution of street and public facility installation, construction and maintenance.
7. Will not cause unreasonable burden on the ability of the municipality to provide educational services.
8. Will not place an unreasonable burden on the ability of the local government to provide municipal or governmental services and facilities.

## **Subchapter 5. General Provisions**

### **§ 6051. Fees**

Upon submission of an application for minor subdivision plat approval, major subdivision preliminary plat approval, or major subdivision final plat approval, applicant shall pay a fee in accordance with a fee schedule established by the Board of Aldermen for subdivision review. Included in the fee shall be the anticipated costs of any public hearing and expenses not otherwise provided for herein.

### **§ 6052. Number of copies**

All required submissions under these regulations shall be submitted in quadruplicate.

### **§ 6053. Attendance at public hearings**

The subdivider or his duly authorized representative shall attend all required meetings and hearings held under these regulations to review the subdivider's application, including any public meetings or hearings which are continued to a specific time and date.

### **§ 6054. Suitability of land**

The DRB shall not approve an application if development is subject to adverse physical limitations which would be harmful to the safety, health and general welfare of surrounding and adjacent areas unless adequate methods to solve the physical limitations are established. Land subject to periodic flooding, poor drainage, inadequate capability to withstand structures, including streets, utilities, and buildings, or other hazardous conditions shall not ordinarily be developed.

### **§ 6055. Conformity with municipal development plan and by-laws**

Proposed subdivisions shall conform to the Rutland City Municipal Plan and all bylaws of the city, including the city Zoning Regulations. When a subdivider submits an application for a proposed Planned Unit Development, in addition to the requirements of these regulations, applicable requirements of the Act and the City of Rutland Zoning Regulations shall be adhered to.

### **§ 6056. Performance bonds**

Before final approval of a subdivision plat, subdivider shall furnish the city with a performance bond with appropriate surety or security, approved by the Board of Aldermen, in an amount to cover the full costs of all new streets and required improvements, and their maintenance for a period of two years after completion, the cost of which shall be borne by the subdivider. The amount of such bond shall be determined by the city engineer and the form and execution of such bond shall be approved by the city attorney. The performance bond shall run for a term determined by the DRB, however, the term may be extended for an additional period not to exceed three years.

As-built construction drawings and plans shall be submitted to and approved by the Zoning Administrator prior to the release of any bonds or portions thereof, for installation of required improvements.

**§ 6057. Acceptance of streets**

Approval of a subdivision plat by the DRB shall not be deemed to constitute or be evidence of acceptance with the city of any streets, easements, water and sewer facilities, or open space shown on the subdivision plat.

**§ 6058. Filing of approved plat**

Approval by the DRB or certification by the City Clerk of the planning commission's failure to act with 45 days of the final public hearing held under these regulations, shall expire 180 days from such approval or certification unless, within such 180-day period, such plat shall have been duly filed or recorded with the office of the City Clerk. A digital copy of any recorded survey or plat shall be filed with the Vermont Center for Geographic Information – Vermont Land Survey Library at [landsurvey.vermont.gov](http://landsurvey.vermont.gov).

No plat showing a new street or highway may be filed or recorded in the office of the City Clerk until it has been approved by the DRB and such approval is endorsed in writing on such plat, or the certificate of the City Clerk showing the failure of the DRB to take action within said 45-day period is attached.

**§ 6059. Plat void if revised after approval**

No changes, erasures, modifications or revisions shall be made on any subdivision plat after approval has been given by the DRB and endorsed in writing on the plat, unless said plat is first resubmitted to the DRB and the DRB approves such modification. In the event said subdivision plat is recorded without complying with these requirements, the plat shall be considered null and void and the DRB shall institute proceedings to have the plat stricken from the records of the City Clerk.

**§ 6060. Application forms**

All applications required under these regulations shall be submitted on forms furnished and approved by the Zoning Administrator.

**§ 6061. Certificate of title**

Final plat application for a minor or major subdivision shall be accompanied by a certificate of title showing ownership of all property and easements to be dedicated or acquired by the city, and said certificate of title shall be approved by the city attorney. All proposed deeds conveying property or easements to the city shall also accompany final applications for minor or major subdivisions, and be approved by the city attorney. All such deeds must be accepted by the city prior to release of any performance bonds or sections thereof.

**§ 6062. Form of recorded plat**

The plat to be filed with the city clerk shall comply with requirements of the Act.

**§ 6063. Reserved.**

**§ 6064. Waivers and variances**

The procedures and requirements for the submission and processing of plats and the standards for the design and layout established by these subdivision regulations may be waived or varied by the DRB, subject to appropriate conditions, when the DRB finds that compliance with any procedure, requirement or standard is not requisite in the interest of the public health, safety and general welfare due to the

special circumstances of a particular plat or plats or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision, however, any waiver or variance granted shall pertain only to that particular subdivision for which it was granted and shall not set a precedent for similar action for any other subdivision. When a waiver or variance has been requested with respect to a subdivision application, the notice of the public hearing on such application shall specify that such has been requested, the section or sections of this regulation to which the request pertains, and a concise statement of the nature and the reasons for the request.

## **Subchapter 6. Administration and Enforcement**

### **§ 6071. Administrative officer**

The Zoning Administrator shall perform the necessary administrative and enforcement requirements of this bylaw.

### **§ 6072. Endorsement by the Development Review Board**

Every approved subdivision plat shall carry the following endorsement on the copy to be filed with the City Clerk: "Approved by resolution of the DRB of the City of Rutland on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ subject to the requirements and conditions of said resolution. Signed this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_, Chairman or Clerk".

### **§ 6073. Appeals**

Appeals from the decision of the DRB shall be in accordance with provisions of the Act and Vermont Statutes as presently in effect or as hereinafter from time to time amended.

### **§ 6074. Enforcement and penalties**

Any person who violates any of the provisions of these regulations shall be fined not less than \$5.00 nor more than \$50.00 for each offense and each day that a violation continues shall constitute a separate offense. Any person who sells, transfers, or agrees to sell or transfer land in a subdivision or land development or erects any structure thereon without first having recorded a duly approved final plat under these regulations shall be fined not less than \$5.00 nor more than \$50.00, and each lot, parcel, or unit so sold, transferred or agreed to be sold or transferred shall be deemed a separate violation. Nothing herein contained shall be deemed to bar any other legal or equitable remedy provided in Act, or otherwise, to restrain, correct, or prevent any violation of these regulations or prosecute violators thereof.

### **§ 6075. Expiration of approval**

If no action is taken by subdivider to construct substantially his proposed subdivision within three years of final plat approval, said approval shall become null and void; however, said approval may be extended for up to two additional years if the DRB determines that developer has, since final plat approval, been diligently and consistently pursuing financing or other necessary approvals.

### **§ 6076. Severability**

The invalidity of any provision of these regulations shall not invalidate any other part.

### **§ 6077. Repeal of prior ordinances**

Upon passage, these subdivision regulations shall be known and cited as Rutland City Subdivision Regulations and are in accord with 24 V.S.A. §4401 et seq. Title 31 R.O.R. Chapter 3, inclusive together with any amendments thereto are hereby repealed as of the effective date of these regulations.

# CITY OF RUTLAND, VT - LAND DEVELOPMENT REGULATIONS

## Appendix C – Flood Hazard Areas and River Corridors

### I. Statutory Authorization and Effect

In accordance with 24 V.S.A. Chapter 117, §§ 4424 and 4414, this is a bylaw for areas at high risk of flood damage in the City of Rutland, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117 and 44 CFR § 60.3(d).

### II. Purpose

- A. To implement the goals, policies, and recommendations in the municipal plan;
- B. To protect health, safety and welfare of the public, minimize and prevent 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 hazards;
- C. Support equitable wellbeing for the entire community;
- D. Ensure that development in our community protects floodplain and river corridor functions, and avoids and reduces damage from flooding and erosion;
- E. Manage all flood hazard areas pursuant to 24 VSA §4382 and 10 VSA §§751, 753; and
- F. Make the City of Rutland, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

### III. Summary Table: Development Review in Hazard Areas

**P** – Permitted (Administrative Permit)

**C** – Conditional Use Review and Permit

**X** – Prohibited

**A** – Exempted

**S** – State Permit Required

#	Activity	River Corridor	Flood Hazard Areas	Floodway
1	New Structures	C	C	X
2	Storage	C	C	X
3	Improvements to Existing Structures	C	P	C

		<b>River Corridor</b>	<b>Flood Hazard Areas</b>	<b>Floodway</b>
4	Small Accessory Structures	C	P	X
5	At Grade Parking	C	P	C
6	Replacement water supply or septic systems	C	S	C
7	Fill or grading resulting in no net loss of flood storage	C	C	X
8	Fill or grading resulting in a loss of flood storage	X	X	X
9	Road maintenance	A	A	A
10	Road improvements	C	C	C
11	Bridges and culverts	S, A	S, A	S, C
12	Channel management	S, A	S, A	S, C
13	Recreational vehicles	C	C	X
14	Open space, recreation	A	A	A
15	Forestry and Agriculture	S, A	S, A	S, A

#### **IV. River Corridor Protection**

##### **A. Purpose**

River corridors provide rivers and stream channels with the space necessary to maintain or reestablish floodplain access and to reduce erosion hazards through natural physical processes. It is the intent of this bylaw to protect public health and safety by avoiding new encroachments into river corridors and minimizing erosion-related damage to existing structures.

A permit is required from the AO for all development that is located within the River Corridor except as provided in Section IV C.1. Where River Corridors and Flood Hazard Areas overlap, the Flood Hazard Area provisions shall also apply.

##### **B. River Corridor Boundaries**

1. This article applies to the River Corridors in the City of Rutland, Vermont, as published by the Agency of Natural Resources (ANR) including refinements to that data which are hereby adopted by reference.
2. 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.



3. 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 Administrative Officer (AO).

4. If the applicant disagrees with the determination made by the AO or with the river corridor as mapped, the applicant has the option to either:

- a. Hire a licensed land surveyor or registered professional engineer to stake out the River Corridor boundary as mapped on the property; or,
- b. Provide data as needed for ANR to update the river corridor map following the Flood Hazard Area and River Corridor Protection Procedure (“Procedure”); or
- c. Request a letter of determination from ANR that the proposed development meets the Performance standard in the Procedure.

### **C. Development Review in River Corridors**

#### **1. Exempted Activities**

The following activities do not require a permit under this section of the bylaw:

- a. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged;
- b. Any changes to a structure that will not change the footprint of the structure;
- c. Maintenance of existing sidewalks, roads, parking areas, stormwater drainage, bridges, culverts, and channel stabilization;
- d. Functionally dependent uses that must be placed in or cross over rivers and streams, that are not located in a flood hazard area, and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder including the construction, removal, or repair of bridges and culverts, associated transportation and utility networks, dams, and dry hydrants;
- e. Planting projects which do not include any construction or grading;
- f. Subdivision of land that does not involve or authorize development;
- g. Activities exempt from municipal regulation and requiring a permit from ANR under the Vermont Flood Hazard Area and River Corridor Rule (CVR 12-030-024) including:
  - i. State-owned and operated institutions and facilities;
  - ii. Forestry operations or silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation;
  - iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture, Food and Market’s Required Agricultural Practices (RAPs). Prior to the

construction of farm structures, the farmer shall notify the AO in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks;

iv. Public utilities regulated under 30 V.S.A. § 248;

v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

## 2. Prohibited Development in the River Corridor

a. New structures, fill, and development that do not meet the standards in Section IV.D Development Standards;

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

## 3. Permitted by Administrative Review

The following development activities meeting the Development Standards in the River Corridor in Section IV. D1 or 2, may be permitted directly by the AO:

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 no 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;

## 4. 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 AO for any activity in the River Corridor that is not exempt, prohibited, or eligible for administrative review.

## **D. 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.

**1. 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

**2. 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.

### 3. River Corridor Performance Standard

Proposals that do not meet the infill or shadowing criteria in section D. 1 or 2 must demonstrate, and the DRB must find, that the proposed development will:

- a. not be placed on land with a history of fluvial erosion damage or threatened by fluvial erosion; and,
- b. 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,
- c. 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.

4. The DRB may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards; and comments provided by the DEC Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.

5. New paths or alterations to paths that provide access to the water for the public, and promote the public trust uses of the water, shall not necessitate bank armoring, and must be relocated when the channel adjusts toward the path.

## V. Flood Hazard Area Protection

**A. Purpose** - To protect public health and safety by avoiding cumulative increases in flood elevations, velocities, and river instability; the cumulative loss of beneficial floodplain functions; and to minimize flood damage to development and services already located within this hazard zone.

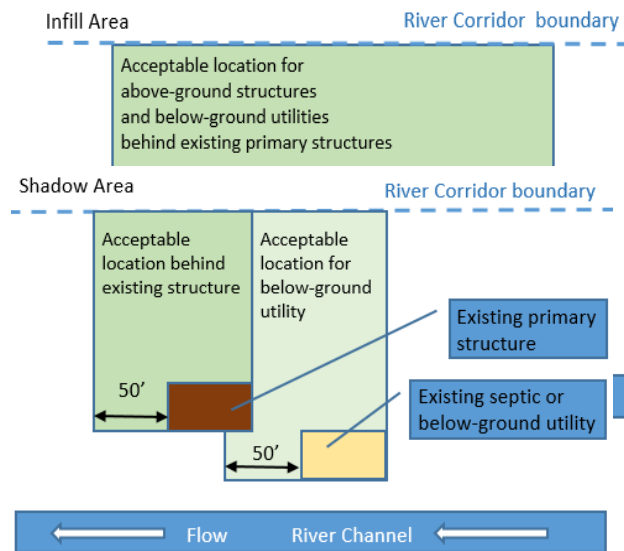


Figure 1: Shadow Area Development Standard

## B. Lands to Which this Bylaw Applies

### 1. Flood Hazard Areas

This bylaw shall apply to the Special Flood Hazard Areas (SFHA) as mapped in the City of Rutland, Vermont identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this bylaw.

### 2. Base Flood Elevations and Floodway Limits

- a. Where available, base flood elevations (BFE) and floodway limits provided by the NFIP and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce this bylaw.
- b. The floodway, as adopted by this community, shall consist of the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
- c. In the SFHA where base flood elevations and/or floodway limits have not been provided by the NFIP 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 to administer this bylaw.
- d. If the Town acquires data that indicates a change in published base flood elevations, the Town will, within 6 months, submit the technical or scientific data to Vermont ANR and the NFIP Map Specialist.

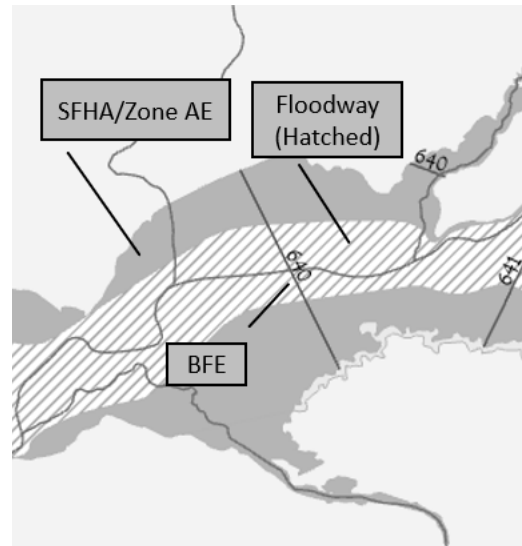


Figure 2: Diagram of Special Flood Hazard Area (SFHA) containing the Floodway (shown in hatched pattern). Also, cross-sections marked with the Base Flood Elevation (BFE) at that location.

## C. Jurisdictional Determination

1. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.
2. If uncertainty exists with respect to the boundaries of the Flood Hazard Area, the location of the boundary shall be determined by the Administrative Officer (AO).

## D. Development Requirements in the Flood Hazard Areas

### 1. Permits

Except as provided in Section V D.2 Exempted Activities, a permit is required from the AO for all development that is located within the Special Flood Hazard Area. Development that requires conditional

use approval or a variance from the Development Review Board (DRB) under this bylaw must have such approvals prior to the issuance of a permit by the AO. All permits shall require that a permittee have all other necessary permits from state and federal agencies before work may begin.

## 2. Exempted Activities

The following activities do not require a permit under this section of this bylaw:

- a. The removal of a building in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged;
- b. Routine maintenance of existing buildings;
- c. Interior improvements or repairs to existing buildings that cost less than 500 dollars;
- d. Maintenance of roads, bridges, or stormwater drainage;
- e. Streambank stabilization, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required;
- f. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c);
- g. Subdivision of land that does not involve or authorize development;
- h. The following activities are exempt from municipal regulation, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):
  - i. State-owned and operated institutions and facilities;
  - ii. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation;
  - iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the AO in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks meeting community requirements;
  - iv. Public utilities regulated under 30 V.S.A. § 248;
  - v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

## 3. Administrative Review; Permitted Development

The following development activities in the Special Flood Hazard Area and meeting the Development Standards in Section V E, may receive a permit from the AO without review by the DRB:

- a. Outside of the Floodway:

- i. Accessory structures not greater than 500 square feet;
  - ii. New fill for existing associated transportation and utility networks or to accommodate a replacement on-site septic system, if it can be demonstrated that no other practicable alternative is available;
  - iii. Recreational vehicles or travel trailers;
  - iv. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;
- b. Within the entire Special Flood Hazard Area:
  - i. Improvements or repairs from damage to structures that do not expand the existing footprint and do not meet the definition of “substantial improvement” or “substantial damage”;
  - ii. Building utilities;
  - iii. At or below grade development (e.g. parking areas);
  - iv. Open fencing or posts;
  - v. Municipal transportation infrastructure improvements designed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;

#### 4. Prohibited Development:

- a. New critical facilities;
- b. New residential or non-residential structures in the Floodway;
- c. Storage of materials or junk yards;

#### 5. Conditional Use Review

In accordance with 24 V.S.A. § 4414, conditional use review and approval by the DRB is required prior to the issuance of a permit by the AO for any activity in the Special Flood Hazard Area that is not exempt, prohibited, or eligible for administrative review.

### **E. Development Standards within the Flood Hazard Area**

- 1. No net loss of flood storage capacity,
  - a. Except as needed to fill an existing basement or mitigate an existing structure;
- 2. All development below the DFE, except development that is exempt under Section V D2, shall be:
  - a. Reasonably safe from flooding;

- b. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
- c. Constructed with materials resistant to flood damage;
- d. Constructed by methods and practices that minimize flood damage;
- e. 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;
- f. Adequately drained to reduce exposure to flood hazards;

3. Fuel storage tanks and vents must be elevated above the DFE and securely anchored;

Storage tanks may be placed underground if a qualified professional certifies the installation will be anchored and protected from flood forces.

4. In Zones AE and A1 – A30 where floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one 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;

5. Recreational vehicles, equipment, boat trailers, portable toilets, construction trailers, and other travel trailers shall:

- a. Be currently registered, licensed, and ready for highway use; or
- b. Be on site for fewer than 180 consecutive days; or
- c. Meet the requirements for structures in Section V E 12;

6. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

9. The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream equilibrium;

10. Bridges, culverts, and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required;

11. Subdivisions and Planned Unit Developments shall be accessible by dry land access;

12. Structural Standards

a. New or Substantially Improved structures shall have the lowest floor, including basement, elevated to or above the Design Flood Elevation (two feet above base flood elevation). This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate;

b. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:

i. Meet the standards of Section V E 12a, above; or,

ii. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that to at least two feet above the base flood elevation the structure is dry floodproofed, meaning 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 dry floodproofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection;

c. New or Substantially Improved structures in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the community's FIRM, or at least three feet if no depth number is specified;

d. Critical facilities to be substantially improved shall have the lowest floor, including basement, elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher;

e. Historic structures being substantially improved shall meet the requirements in this bylaw other than the Lowest Floor Elevation (Section V E.12);

f. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited;

g. Fully enclosed areas below the lowest floor, that are above grade, below the DFE, 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 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,

ii. meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent 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; and



- iii. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation if adequate flood openings are provided, the structure is placed on the site so as to offer the minimum resistance to the flow of floodwaters, and the construction meets the criteria in Section V E2 above.

## **F. Development Standards within the Floodway**

1. Within the Floodway new encroachments are prohibited except for the following, which also shall comply with Section V F.2, below:

- a. changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;
- b. new encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects;
- c. new encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available.

2. Within the Floodway all proposed new encroachments are required to provide a hydraulic analysis, performed by a registered professional engineer, in accordance with standard engineering practice, certifying that the proposed development will:

- a. Not result in any increase in flood levels during the occurrence of the base flood;
- b. Not increase base flood velocities; and,
- c. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

3. For development that will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

## **VI. Other Provisions**

### **A. Precedence of Bylaw**

The provisions of this bylaw shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this bylaw imposes a greater restriction the provisions here shall take precedence.

### **B. Validity and Severability**

If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

### **C. Warning of Disclaimer of Liability**

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. This bylaw shall not create liability on the part of the City of Rutland, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this bylaw, or any administrative decision lawfully made hereunder.

## **VII. Administration**

### **A. Administrative Officer (AO)**

An Administrative Officer (AO) shall be appointed to administer this bylaw pursuant to 24 V.S.A. § 4448. The AO shall administer this bylaw literally and in doing so shall inspect development, maintain records, enforce this bylaw, and perform all other necessary tasks to carry out the provisions of this bylaw and the statutory requirements of 24 V.S.A. Chapter 117. The AO shall not have the power to permit any land development that is not in conformance with this bylaw.

### **B. Development Review Board (DRB)**

A Development Review Board (DRB) shall be appointed by the Selectboard in accordance with 24 V.S.A. § 4460. The DRB shall have the duties and responsibilities as described in 24 V.S.A. Chapter 117 and as otherwise required by the municipal bylaws.

### **C. Applications** All applications for development shall include:

1. A site plan that depicts the proposed development including water, Flood Hazard Areas, and River Corridor boundaries; the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps.
2. A copy of the ANR Permit Navigator Results Summary.

### **D. Action and Referrals**

1. Within 30 days of receipt of a complete application the AO shall issue or deny a permit in writing or refer it to the DRB.
2. Any application for a proposed conditional use, variance, or appeal shall be referred by the AO to the DRB in accordance with 24 V.S.A. §§ 4448 and 4469.
3. Any application regarding New Construction, Substantial Improvement, development in a Floodway, development in a River Corridor, or a Variance shall be submitted by the AO to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources in accordance with 24 V.S.A. § 4424. A permit may be issued following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
4. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall be submitted by the AO to the adjacent communities, the River Management Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers.

### **E. Public Notice**

Prior to the issuance of a permit, proposals needing conditional use review, or consideration for a variance or appeal, must have a warned public hearing. Public notice of the hearing shall be provided by the AO at least 15 days before the date of the hearing by all the following:

1. Publication of the date, place, and purpose of the hearing in the newspaper of general circulation;

2. Posting of the same information in three or more public places within the municipality, including posting of notice by the applicant within view from the public right of way nearest to the property for which an application is made; and,

3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. In any situation in which a variance is sought regarding setbacks from a state highway, written notification shall be sent to the Secretary of Transportation. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

4. The applicant shall bear the cost of the public warning and notification of adjoining landowners.

#### **F. Decisions**

1. Decisions on applications that go to the DRB for review shall be made in accordance with 24 V.S.A. § 4464 including all findings of fact, conclusions, and conditions.

2. The DRB shall consider comments from the ANR.

3. No permit shall be issued by the AO for any use or structure which requires the approval of the DRB until such approval has been obtained.

#### **G. Permits**

1. Where eligible, a permit shall be issued by the AO only in accordance with 24 V.S.A. Chapter 117;

2. Permits must state that all other necessary permits from state and federal agencies must be obtained before work may begin. A notice of permit, on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property must be posted until the appeals period has passed. Any Appeals shall be made within 15 days of permit issuance.

3. The AO, within three days of the date of issuance of a permit, shall deliver a copy of the permit to the listers of the municipality, and shall post a copy of the permit in the Town Offices for a period of 15 days from the date of issuance.

4. No permit shall take effect until the time for appeal (15 days) has passed, or in the event that a notice appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the DRB is complete and the time for taking an appeal to the Environmental Division of the Superior Court has passed without an appeal being taken. If an appeal is taken to the Environmental Division, the permit shall not take effect until the Environmental Division rules in accordance with 10 V.S.A. § 8504.

5. Within 30 days after a permit has been issued, or within 30 days of the issuance of any notice of violation, the appropriate municipal official shall:

- a. deliver the original or a legible copy of the permit or notice of violation or a notice of permit generally in the form set forth in 24 V.S.A. § 1154(c) to the town clerk for recording as provided in 24 V.S.A. § 1154(a); and,

b. file a copy of that permit in the offices of the municipality in a location where all municipal land use permits shall be kept.

#### 6. Expiration

- a. A permit shall remain valid for two (2) years from the date it is issued as long as substantial land development has been made;
- b. Permits shall run with the land regardless of owner;
- c. Structures shall be considered abandoned where the structures are no longer being maintained as a habitable structure for a period of at least five years, regardless of evidence of intent to re-establish such use. A habitable structure is structurally sound, weathertight, with functional drinking water, wastewater, and heating systems.

#### H. Variances

Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469 after a public hearing noticed in accordance with 24 V.S.A. § 4464. If the proposed development is located within any Flood Hazard Area, the proposal shall comply with 44 C.F.R. § 60.6. Any variance issued in the Flood Hazard Area shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the BFE increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

#### I. Appeals of a Permit Decision

Appeals from any decision or act of the AO in connection with this bylaw, shall be made to the DRB as provided for in 24 V.S.A. § 4465. Appeals from any decision of the DRB in connection shall be made to the Vermont Superior Court, as provided for in 24 V.S.A. § 4471.

#### J. Administrative Responsibilities

1. The AO shall properly file and maintain a record of:

- a. All permits and supporting documents;
- b. A FEMA Elevation Certificate for any new, replacement or substantially improved buildings (not including accessory buildings) in the Flood Hazard Area;
- c. All floodproofing and other certifications required under this regulation; and,
- d. All decisions of the AO and DRB (including those for Substantial Improvement, Substantial Damage, appeals, variances, and violations) and all supporting findings of fact, conclusions, and conditions.
- e. All Certificates of Occupancy, and receipts as required for the determination of Substantial Improvement.

2. Substantial Improvement and Substantial Damage Determinations

- a. In the event of damage of any kind to a structure located within any Flood Hazard Area, the AO shall determine if Substantial Damage occurred regardless of any intended repair at that time.
- b. In the review of any proposal for the repair or improvement of a structure located within any Flood Hazard Area District, the AO shall determine if the proposal indicates Substantial Improvement.
- c. Substantial Improvement or Substantial Damage determinations shall be made in accordance with current FEMA and ANR guidance, or by a procedure meeting FEMA standards and established by the Town in accordance with 24 V.S.A. § 1972.

### 3. Certificate of Occupancy

- a. A Certificate of Occupancy (CO) is required for any new or Substantially Improved primary structure permitted under this bylaw. It shall be unlawful to use or occupy any structure within the areas affected by this bylaw, until a CO is issued by the AO in accordance with 24 V.S.A. § 4449 stating that the structure conforms to the requirements of this bylaw.
- b. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw.
- c. Upon receipt of the application for a certificate of occupancy, the AO shall review the permit conditions and inspect the premises to ensure that:
  - i. any required state and federal permits have been received,
  - ii. all work has been completed in conformance with the zoning permit and associated approvals, and
  - iii. all required as-built documentation has been submitted to the AO (e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis).
- d. If a certificate of occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

### 4. Enforcement

- a. This bylaw shall be enforced in accordance with 24 V.S.A. §§ 1974a, 4451, and 4452. All notices of violation shall be provided to the State NFIP Coordinator.
- b. No new flood insurance shall be provided for any property which the Federal Insurance Administrator finds has been declared to be in violation of local flood hazard area regulations. If any appeals have been resolved, but the violation remains, the AO shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended. New and renewal flood insurance shall be denied to a structure upon a finding by the Federal Insurance Administrator of a valid declaration of a violation.

## VIII. Definitions

**“Accessory dwelling”** means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. Accessory dwellings are residential structures.

**“Accessory structure”** means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use or structure on a lot, 2) located on the same lot as the principal structure or use, 3) clearly and customarily related to the principal structure or use, and 4) only used for vehicle parking, storage, or primarily building access. Examples include, garages, garden and tool sheds, and playhouses, but do not include “accessory dwellings.”

**“Area of special flood hazard”** is synonymous in meaning with the term “special flood hazard area” for the purposes of this bylaw.

**“Associated transportation and utility networks”** means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream .

**“Base flood”** means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).

**“Base Flood Elevation”** (BFE) is the elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**“Basement”** means any area of a building having its floor elevation below ground level on all sides, including crawlspaces.

**“Channel”** means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

**“Compensatory storage”** means a volume not previously used for flood storage and which shall be incrementally equal to or exceed the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek.

**“Common plan of development”** means where a structure will be refurbished or constructed under one approved plan or permit, but in separate stages, phases, or in combination with other construction activities. Such work may be planned unit by unit and may take place at different times, on different schedules.

**“Construction trailer”** means a vehicle which is: (1) built on a single chassis; (2) 500 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable; and (4) designed for use as a temporary office facility used to support management of a construction project, and not as a permanent structure.

**“Critical facilities”** means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.

**“Design Flood Elevation”** (DFE) in the City of Rutland means the Base Flood Elevation plus two feet.

**“Designated center”** means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. chapter 76A.

**“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.

**“Encroachment”** means fill or development that reduces the functional river corridor (impairs the equilibrium condition) or increases flood levels.

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

**“Fill”** means any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

**“Flood hazard”** means those hazards related to damage from flood-related inundation or erosion.

**“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.

**“Flood Insurance Study”** (FIS) 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.

**“Floodproofing”** 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.

**“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. Please note that flood hazard areas and floodways may be shown on a separate map panels.

**“Fluvial erosion”** means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.

**“Grading”** means the movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered “fill” and shall not be considered grading.

**“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.

**“Lowest floor”** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. § 60.3.

**“Maintenance”** means periodic actions required to keep up a condition and that do not significantly change the materials or extent of an existing condition in the hazard area.

**“Manufactured home (or Mobile 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”.

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

**“Nonconforming structure”** means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the regulations in effect at the time of their creation, and remain so, remain violations and are not nonconforming structures.

**“Nonconforming use”** means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

**“Non-residential”** includes: businesses, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, industrial structures, and warehouses.

**“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.

**“Replacement structure”** means a new building placed in the same footprint as the pre-existing building and does not include a change in use.

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



**“River corridor”** means 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).

**“Special flood hazard area”** (SFHA) is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of this bylaw, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area.” This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current flood insurance studies and on the maps published by FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of special flood hazard areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

**“Start of construction”** for purposes of floodplain management, 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, whether or not that alteration affects the external dimensions of the building.

**“Storage”** means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose;

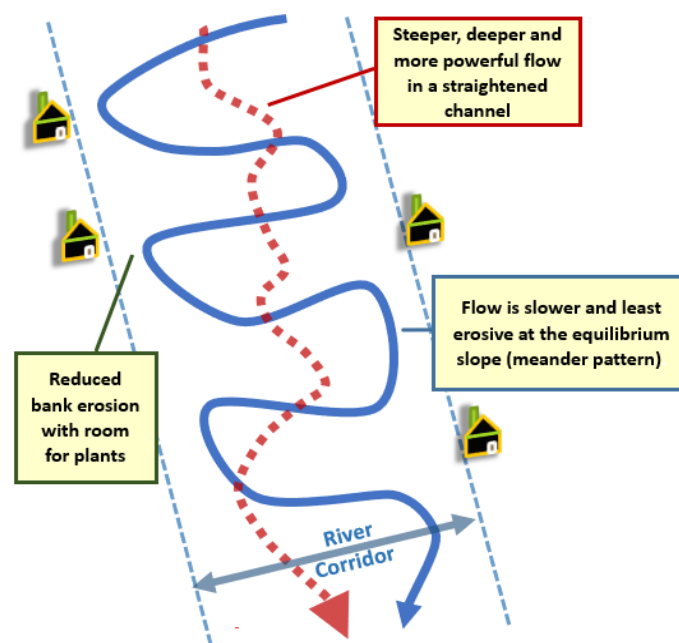


Figure 3: River Corridor Diagram showing room for river channel adjustments to minimize slope and erosive power.

whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with these development standards.

**“Structure”** means a walled and roofed building, as well as a manufactured home, including gas or liquid storage tanks.

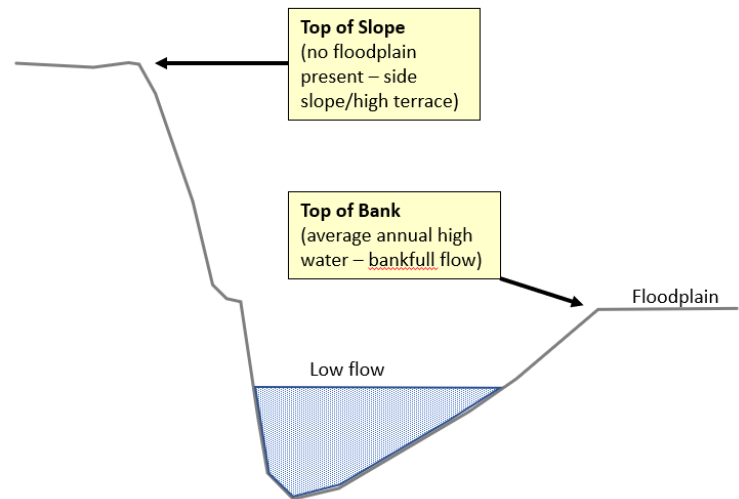
**“Substantial damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

**“Top of bank”** means the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

**“Top of slope”** means a break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

**“Violation”** means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 C.F.R. § 60.3 is presumed to be in violation until such time as that documentation is provided.



*Figure 4: Diagram showing the Top of Bank where stream flows onto a floodplain and Top of Slope where floodplain access is not present.*