

# POULTNEY UNIFIED BYLAWS



**ADOPTED MAY 9, 2022**

**PREVIOUSLY AMENDED BY THE POULTNEY SELECTBOARD ON MAY 14, 2018**

**ZONING REGULATIONS – TOWN OF POULTNEY**  
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## **ARTICLE I: ENACTMENT, OBJECTIVES, PURPOSE AND SCOPE**

### **Section 101: Enactment**

In accordance with the Vermont Planning and Development Act, 24 VSA 117, hereinafter referred to as the "Act", there are hereby established Unified Bylaws for Town of Poultney which shall be known and cited as the "Town of Poultney Unified Bylaws".

### **Section 102: Objectives and Intent**

The objective of the Unified Bylaws is to establish standards and policies concerning development of land which further the goals of the Poultney Town Plan.

It is intended that standards and policies established by the Unified Bylaws reflect and express a sense of community values toward Poultney Town's environment including the value of appearance and congenial arrangement for the conduct of farming, trade, industry, residence and other uses of land necessary to the community's well-being in so far as such values are related to the objectives of the adopted Town Plan.

### **Section 103: Purpose and Scope**

The purpose of these Bylaws is to provide for orderly growth and coordinated development in the Town of Poultney to assure the comfort, convenience, safety, health, and welfare of the people, to carry out the purposes of the comprehensive plan, to assure conformance with the capital budget and program and official map, to establish regulations and conditions governing the erection and use of buildings, other structures and use of land and natural resources, to make proper provision for drainage, streets, recreational facilities, open space and other improvements, to recognize a desirable relation to land form, its topography and geology, to natural drainage and surface water runoff, and to the ground water table, to preserve natural assets, and to further the purposes of § 4401 of the Act.

## ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

### **Section 201: Establishment of Zoning Districts**

The Town and Village of Poultney hereby establish the following thirteen (13) Zoning Districts:

#### A. UD – Future Utility District

1. Purpose: The purpose of the Future Utility zoning district is to promote smart growth which expands the social and physical residential character of the existing Village and provides opportunities for social, cultural, and economic diversity.
2. Limitations: An approved village sewer and/or water permit is required before applying for a zoning permit. Parcels in this district without the proper village sewer and/or water permit shall meet the dimensional requirements and uses of the ARR-2 Zoning District.
3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

#### B. VR - Village Residential

1. Purpose: The purpose of the Village Residential zoning district is to maintain the traditional social, historical and physical residential character of the Village.
2. Limitations: An approved village sewer and/or water permit is required before applying for a zoning permit.
3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

#### C. VC - Village Commercial

1. Purpose. The purpose of the Village Commercial zoning district is to maintain the historic character of the Village center while providing opportunities for social, cultural, and economic diversity.
2. Limitations: An approved village sewer and/or water permit is required before applying for a zoning permit.
3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

#### D. VI - Village Industrial

1. Purpose: The purpose of the Village Industrial zoning district is to provide for the limited expansion of existing industrial developments and appropriate new industrial developments within the confines of the Village, in keeping with high environmental and siting standards due to proximity to less intense neighboring land uses. The intent is to provide nearby employment opportunities for residents without unduly impacting the capacity of community services and facilities.

2. Limitations: An approved village sewer and/or water permit is required before applying for a zoning permit.

Any lot that is proposed to be developed for any use that adjoins a lot in a residential district or a lot which has an existing residential use as its only use, will be required to provide a landscaped buffer area along the full length of the joint property line. As a minimum, two rows of staggered evergreen trees, planted 10' on center, must be planted 10' off of the boundary line. The Development Review Board may waive this requirement -where the development site includes an existing woodland which will remain undisturbed and is at least 40' deep.

3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

E. CC - College Campus

1. Purpose: The purpose of the College Campus zoning district is to allow the orderly growth and development of the campus and outlying buildings formerly owned by Green Mountain College within the context of the Village center. The intent is to allow for the re-use and limited expansion of the uses, without unduly impacting the capacity of community services and facilities.
2. Limitations: An approved village sewer and/or water permit is required before applying for a zoning permit.
3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

F. RR-1 - Rural Residential - 1 Acre

1. Purpose: The purpose of this district is to allow for appropriate density of development on lands with good leaching potential for septic systems which are in close proximity to the Village of Poultney.
2. Limitations: Prior to Zoning/Building Permit approval, an applicant must obtain a potable water supply and wastewater system permit from the Agency of Natural Resources if required.
3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

G. ARR-2 - Agriculture/Rural Residential - 2 Acre

1. Purpose: The purpose of the Rural Residential-2 zoning district is to allow for appropriate density of development in the rural areas of Poultney.
2. Limitations: Prior to Zoning/Building Permit approval, an applicant must obtain a

potable water supply and wastewater system permit from the Agency of Natural Resources if required.

3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

H. ARR-5 - Agriculture/Rural Residential - 5 Acre

1. Purpose: The purpose of the Rural Residential-5 zoning district is to allow for appropriate density of development in the rural areas of Poultney.
2. Limitations: Prior to Zoning/Building Permit approval, an applicant must obtain a potable water supply and wastewater system permit from the Agency of Natural Resources if required.
3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

I. ARR-10 - Agriculture/Rural Residential - 10 Acre

1. Purpose. The purpose of the Rural Residential-10 zoning district is to provide for very sparse residential development in areas which are generally unsuitable for development.
2. Limitations: Prior to Zoning/Building Permit approval, an applicant must obtain a potable water supply and wastewater system permit from the Agency of Natural Resources if required.
3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

J. I - Industrial

1. Purpose: The purpose of the Industrial zoning district is to provide for expanded and new industrial development outside of the Village on soils most able to handle the uses and adjacent to the primary highways of the Town.
2. Limitations: Any lot that is proposed to be developed for any use that adjoins a lot in a residential district or a lot which as an existing residential use as its only use, will be required to provide a landscaped buffer area along the full length of the joint property line. As a minimum, two rows of staggered evergreen trees, planted 10' on center, must be planted 10' off of the boundary line, and must be a minimum of 5-6' high when planted. The entire 40' deep buffer area must be kept free of all structures and paving. The Development Review Board may waive this requirement if the development site has an existing woodland which will remain undisturbed and is at least 40' deep.

Prior to Zoning/building permit approval, an applicant must obtain a potable water supply and wastewater system permit from the Agency of Natural Resources if

required.

3. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

K. FH - Flood Hazard Area Overlay

1. Purpose: The purpose of the Flood Hazard Area Overlay Zoning District is to:
  - a. 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 and other flood related hazards; and
  - b. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
  - c. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and,
  - d. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

These regulations shall apply in the Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

2. Limitations: See Article VIII.

L. LS - Lake Shore

1. Purpose: The purpose of the Lake Shore zoning district is to maintain the integrity and protect the quality of the shoreland environment and to lessen the potential of water pollution from shoreland sources.
2. Limitations: Lots in the Lakeshore District: Waterfront lots may have a dock as long as it complies with State Regulations.
3. Any development within 50 ft. of the Lake St Catherine shoreline must contain an erosion control plan with the zoning application.
4. No Zoning and/or Building permit for a change of use (including conversion of seasonal dwellings to year-round residences) will be approved until an applicant obtains a potable water supply and wastewater system permit or exemption from the Agency of Natural Resources.

5. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

M. CD – Northeast Conservation and Wildlife Habitat Overlay District

1. Purpose: The purpose of the Northeast Conservation and Wildlife Habitat zoning district is to protect a valuable natural resource in an area designated by the Poultney Town Plan as the Northeast Conservation and Wildlife Habitat Area.
2. Limitations: Prior to Zoning/Building Permit approval, an applicant must obtain a potable water supply and wastewater system permit from the Agency of Natural Resources if required.
3. Permitted, Site Plan and Conditional uses identified in Article III under CD may be considered. Dimensional standards for the underlying District shall apply to proposed developments in this District.
4. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.K

**Section 202: Zoning Map**

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map. The Official Zoning Map is hereby made a part of these regulations, together with all future amendments. No amendment to this Regulation which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map, signed by the Selectboard and attested to by the Town Clerk. No changes of any nature shall be made in the Official Zoning Map except in conformity with Sections 1905 of this Regulation.

Regardless of the existence of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be that located in the Town Clerk's office and it shall be the final authority as to the current zoning status of land and water areas.

**Section 203: Interpretation of Zoning District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way shall be construed to follow such center lines;
- B. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines;
- C. Boundaries indicated as following shorelines shall be construed as the low mean water level.
- D. Boundaries indicated as parallel to or extensions of features in 1 through 3 above shall be so construed;
- E. Where circumstances are not covered by A through D above, the Development Review Board shall interpret the district boundaries;

- F. The Zoning Administrator shall determine the boundaries of the designated flood hazard area by scaling distances on the most recently adopted National Flood Insurance Program Flood Insurance Rate Maps.
- G. Where interpretation is needed as to the exact location of the boundary, with exception of the Special Flood Hazard Area boundaries, the Development Review Board shall, upon appeal, make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to present his/her case to Development Review Board and to submit his/her own technical evidence. Any appeals to SFHA boundaries shall go through FEMA LOMC process.

**Section 204: Application of Regulations**

Hereafter no division of a parcel into two (2) or more parcels, the construction, exterior reconstruction, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), 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 shall commence except in compliance with all regulations in this bylaw for the district in which such building or land is located.

Any use not permitted by these regulations shall be deemed to be prohibited.

**ARTICLE III: TABLE OF USES**

	UD	VR <sup>1</sup>	VC <sup>1</sup>	VI <sup>1</sup>	I	CC <sup>1</sup>	RR-1	ARR-2	ARR-5	ARR-10	LS	CD	Comments
<b>Accessory Apartment</b>	P	P	P		P	P	P	P	P	P	P		
<b>Accessory use or building</b>	P	P	P			P	P	P	P	P	P		
<b>Animal Boarding</b>	C	C					C	C	C	C			See Section 402
<b>Antique Shop</b>	C	C		S	S		C	C	C	C			See Section 403
<b>Appliance Repair Shop</b>			C		C								See Section 401
<b>Artist Studio/Gallery</b>		S	S			P							
<b>Auto Service Station</b>			C										See Section 404
<b>Auto Service Station w/Retail Store-Mini-Mart</b>			C										See Section 404
<b>Banks</b>			S			S							
<b>Bed and Breakfast Lodging</b>	S	S	S			S	S	P	P	P	S		
<b>Building Materials Sales/Showroom</b>				S	S								
<b>Building Trades or Excavation Center</b>				S	S								
<b>Camp</b>								P	P	P		P	
<b>Car Wash</b>				C	C								See Section 401

	UD	VR <sup>1</sup>	VC <sup>1</sup>	VI <sup>1</sup>	I	CC <sup>1</sup>	RR-1	ARR-2	ARR-5	ARR-10	LS	CD	Comments
<b>Clinic, Medical</b>			S	S	S	S							
<b>Club or Lodge, Private</b>	C		P			C		C	C	C			See Section 405
<b>College owned or directed facilities</b>						S							
<b>Commercial/Residential - Mixed use</b>			S										
<b>Community Care Facility</b>	C	C	C					C	C				See Section 406
<b>Contractor's Yards</b>				S	S			C	C	C			See Section 407
<b>Cottage Industry</b>	C							C	C	C			See Section 408
<b>Crematorium</b>								C	C	C			See Section 409
<b>Daycare Facilities</b>	P	P	P			P	P	P	P	P			
<b>Dry Cleaner</b>			C										
<b>Dwelling:</b>													
<b>One Family</b>	P	P	P		P	P	P	P	P	P	P		See Section 1603
<b>Two-Family</b>	P	P	P		P	P	P	P	P	P			See Section 1603
<b>Multi-Family</b>	C	C	C		C	C	C	C	C	C			See Section 416
<b>Elderly Housing Complex</b>	C	C	C			C	C	C	C	C			See Section 410

	UD	VR <sup>1</sup>	VC <sup>1</sup>	VI <sup>1</sup>	I	CC <sup>1</sup>	RR-1	ARR-2	ARR-5	ARR-10	LS	CD	Comments
<b>Farm Stand</b>			P			P	P	P	P	P			
<b>Food &amp; Beverage Processing Facility</b>			C	S	S	C		C	C	C			See Section 411
<b>Funeral Home</b>	C												
<b>Garages on pre-existing small lots</b>	C	C	C			C	C	C	C	C	C		See Section 412
<b>Home Occupation</b>	P	P	P			P	P	P	P	P	P		
<b>Hotel/Motel</b>						C		C					See Section 413
<b>Industry, Light</b>				S	S								
<b>Laboratories; Medical, Dental, other</b>			S	S	S								
<b>Machine Shop</b>				S	S								
<b>Mobile Home Parks</b>	C							C	C	C			See Section 414
<b>Motorcoach - Trailer Park</b>								C					See Section 415
<b>Motor Vehicle Sales and Service:</b>													
<b>New</b>				S	S								
<b>Used</b>				S	S								
<b>Municipal Building</b>			S										

	UD	VR <sup>1</sup>	VC <sup>1</sup>	VI <sup>1</sup>	I	CC <sup>1</sup>	RR-1	ARR-2	ARR-5	ARR-10	LS	CD	Comments
<b>Nursing Home</b>	C	C	C					C	C				See Section 417
<b>Parking Lot, municipal or private</b>			S										
<b>Park</b>	P	P	P			P	P	P	P	P	P		
<b>Personal Service</b>			S	S									
<b>Printing and Publishing</b>				S	S								
<b>Professional Office-Residence</b>	S	S	S			S	S	P	P	P	S		
<b>Professional or Business office</b>			S	S	S	S							
<b>Public Storage Facility, self-service</b>				S	S								
<b>Recreation Facility</b>		C	C			C		C	C	C	C		See Section 418
<b>Recycling Center</b>				S	S	S							
<b>Renewable Energy Structures</b>	C	C	C	C	C	C	C	C	C	C	C		See Section 419
<b>Research and Development Facility</b>				S	S	S							
<b>Restaurants</b>			S			C		C	C		C		See Section 420
<b>Retail Store</b>			S	S		C					C		See Section 421

	UD	VR <sup>1</sup>	VC <sup>1</sup>	VI <sup>1</sup>	I	CC <sup>1</sup>	RR-1	ARR-2	ARR-5	ARR-10	LS	CD	Comments
<b>Sand, Gravel, Soil Extraction</b>								C	C	C			See Section 422
<b>School</b>		P	P			P	P	P					
<b>Self Storage Facilities</b>				C	C			C					See Section 423
<b>Slate Mining</b>					C			C	C	C			See Section 424
<b>Slate Processing</b>					P			C	C	C			See Section 425
<b>Theaters</b>			P			P							
<b>Vehicle Repair, Garage</b>				C	C								See Section 426
<b>Veterinarians:</b>													
<b>    With Boarding</b>								C	C	C			See Section 427
<b>    Without Boarding</b>			S					S	S	S			
<b>Warehouse</b>				S	S	C							See Section 428
<b>Wireless Telecommunications Facilities</b>					C	C		C	C	C	C		See Section 429
<b>Wholesale Distributor</b>				S	S								

1) Applicants must obtain approved village sewer and/or water permits before applying for a zoning permit.

P = The use is permitted as a matter of right after obtaining a permit in accordance with Section 1602.

S = The use is permitted in the designated district but subject to review by the Development Review Board in accordance with the Site Plan Approval provisions of Article XIII.

C = The use is permitted in the designated district but subject to review by the Development Review Board in accordance with the conditions set forth in Article IV

Some of the above uses may require a STATE PERMIT. For information call (802) 786-5900.

The Official Zoning Map is located at the Town Clerk's Office. A description of each zoning district can be found in Article II. The Official Zoning Map should be consulted when considering the purchase or development of land and/or structures.

2) For uses in the Flood Hazard Area District, please refer to the Article VIII.

3) Applicants may apply for Conditional Use Approval from the Development Review Board for uses not listed in the Table of Uses which the DRB deems to be of the same general character as those allowed in the district in which the use is proposed and which the DRB deems to be consistent with the Town Plan.

## **ARTICLE IV: USES PERMITTED SUBJECT TO CONDITIONS**

A zoning permit shall be issued by the Zoning Administrator for any use or structure which requires conditional use approval only after the Development Review Board grants such approval. In considering its action, the Board shall make findings upon specific standards set forth in these regulations and the objectives of Section 1303: Review Procedure for Site Plan Approval.

In granting conditional use approval, the Board may attach such reasonable conditions as it deems necessary.

The proposed use shall comply with all specific provisions of these Bylaws applicable to it, including but not limited to Lot Size, Setbacks and Yards (Article V), Parking and Loading (Article VI), Signs (Article XII), and Performance Standards (Article XV, Section 1529). However, if one of the following subsections contains a more restrictive requirement for a particular use, such subsection shall control as to that particular use.

If a use will be located in the Flood Hazard Area, the provisions of Article VIII shall apply.

### **Section 401: General Standards**

The Development Review Board (DRB) shall make findings of fact and conclusions of law that the project will comply with all of the following standards, as it determines are applicable:

#### **A. Existing and Planned Community Facilities and Services**

1. **Water and Sewer.** The project shall have sufficient water and sewer capacity available for its needs and shall not result in an unreasonable burden on the municipality's present or planned water or sewer systems (if municipal water or sewer are not involved, the property must have adequate capability for on-site water supply and wastewater disposal in accordance with applicable State regulations);

The DRB may solicit input from the Village Manager.

2. **School Impact.** The project shall not cause an unreasonable burden on the ability of the school district to provide educational services;

The DRB may solicit input from the School Board and Superintendent of Schools.

3. **Municipal Impact.** The project shall not place an unreasonable burden upon the ability of the Town to provide municipal services, including but not limited to Fire, Police, Ambulance, Highway, and Public Works Maintenance and Recreation;

The DRB may solicit input from the Town Manager, Fire Chief, law enforcement, or Selectboard.

4. **Other Public Investments and Services.** The project shall not endanger public or quasi-public investments or materially interfere with the function, efficiency, safety, or public's use and enjoyment of governmental, utility or non-profit community facilities, services or lands.

**B. Character of the Neighborhood or Area Affected**

1. The project shall not have an undue adverse effect on the character of the neighborhood, or area affected.

A multiunit dwelling project consisting of four or fewer units located in a district allowing multiunit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected.

"Neighborhood" means in the same area; nearby including but not limited to the area within sight and/or sound. "Character of a neighborhood" refers to the distinctive traits, qualities or attributes; its appearance and essential nature, pattern of uses, and sense of community; the factors which give it identity.

A goal of the Town Plan is to allow for appropriate mixed uses to generally encourage balanced diversity, while protecting the essential character of neighborhoods. The existence of one conditional use in a neighborhood shall not be interpreted as justification for another similar conditional use to be located there.

When considering the "character of the neighborhood or area", the DRB shall consider the following:

- a. existing neighborhood uses, types of buildings, noise and traffic.
- b. Town Plan objectives
- c. historic buildings and features; intensity, uniformity or mix of uses and buildings; mass, scale and spacing of buildings; scenic views, aesthetics, open space.
- d. privacy, security, identity, sense of community and cohesion.

2. **Aesthetics and Historic Sites.** The project shall not have an undue adverse effect on:

- a. aesthetics
- b. scenic or natural beauty of the area
- c. historic or archeological sites;

The DRB shall consider the Town Plan and may solicit input from Poultney Historical Society or the State Archeologist.

3. **Natural Resources.** The project shall not have an undue adverse effect on:

- a. Agricultural lands and farms;
- b. Rivers and streams;
- c. Wetlands and wildlife habitat;
- d. Water and air quality; and
- e. Water supply wells and aquifers;

The DRB shall consider the intrinsic capability and appropriateness of the land to support the use described in the application. Where applicable, the DRB may utilize Act 250 standards and State Agency of Natural Resources (ANR) information and

regulatory framework. The DRB may also consider input from any area Land Trust, and existing studies of resources.

4. **Affordable Housing.** The project shall not have an undue adverse effect on the present or projected housing needs in the Town in terms of amount, type, affordability and location.

The DRB may solicit input from the Rutland Regional Planning Commission or the Rutland County Housing Authority.

5. **Downtown Impact.** The project shall not have an undue adverse impact on the economic vitality of the downtown.

The DRB shall consider the following:

- a. Will the project have any adverse impact?
  - i. Context – Evaluate the location of the project. Consider its relationship to the Poultney Designated Downtown and/or the historic core of the downtown.
  - ii. Potential harms – Will the project be compatible and harmonious? Consider the nature of use, scale, style and potential impacts on the downtown and features (visibility and prominence).
    - Will it discourage pedestrians, reduce parking or negatively affect cultural activities downtown?
    - Will the project draw people out of the downtown, either directly from institutions or businesses currently located in the downtown, or indirectly by causing secondary growth which will have this effect?
    - Will it undermine or be adverse to downtown improvement efforts?
    - Consider the economic effects of the project on the historic core of the downtown or upon the downtown district as a whole. In any economic analysis, care must be taken to distinguish individual business competition concerns from a project's impact on the economic vitality of the downtown. A project's impact on market competition is a relevant factor under this standard only to the extent that it will have an impact on the economic vitality of the core of the downtown, or on the downtown as a whole.
    - Consider cumulative effects.
- b. Will the adverse impact be undue, considering all of the following:
  - i. Would it reduce the ability of the public to access, circulate and easily conduct business or enjoy cultural activities downtown, or diminish downtown improvement efforts, to an unacceptable degree?
  - ii. Do the economic impacts unreasonably outweigh the economic benefits?

- iii. Are there other relevant impacts that significantly outweigh the benefits to the downtown's vitality?
- iv. Has the applicant taken reasonable mitigating steps that would reduce or minimize the undue impact? This would include customary project planning and market analysis, considering different types of projects, and reasonably sizing the project to avoid or reduce the adverse impact on the downtown.

**C. Traffic on Roads or Highways in the Vicinity**

The project shall have adequate traffic access, circulation and parking, and shall not cause unreasonable traffic congestion, excess noise, or unsafe conditions with respect to pedestrian or vehicular traffic or other transportation facilities.

The DRB may consider:

- Input from the Fire Chief
- Input from the Town and/or Village Road Foreman
- Town traffic plans and studies
- Traffic engineering studies that may be required of the applicant;
- Pedestrian and bicycle needs
- Alternatives that reduce driving and traffic; and
- Public transit input from MVRTD (Marble Valley Regional Transit District)

**D. Performance Standards and other Town Ordinances**

1. The project shall comply with all performance standards (Article XV, Section 1529) and other specific requirements of these Bylaws;
2. The project shall comply with other Town Ordinances and Regulations;

**E. Utilization of Energy Resources**

The project shall not have an undue adverse effect upon the utilization of energy resources;

The DRB shall consider:

- Whether the project will unreasonably harm any neighbor's access to solar energy or other alternative energy utilization.
- Whether the project will appropriately incorporate the principles of energy conservation and the best available technology that is practicable for efficient use and recovery of energy.
- Whether the project will be able to be served by existing and permitted utility facilities, without excessive demands or adverse indirect impacts.

The DRB shall utilize recognized standards and information from Efficiency Vermont, the VT Department of Public Service, and Act 250 Criterion 9(F) standards.

**F. Town Plan Conformance**

The project shall comply with and actively further the Town Plan.

**Section 402: Animal Boarding**

- A. The minimum lot size shall be five (5) acres.
- B. The minimum setback of structures housing the animals shall be two hundred (200) feet from any adjacent residential property line.
- C. Animal excrement, waste and remains shall be disposed of in a proper and sanitary manner.
- D. All standards set forth in Article XV, Section 1529: Performance Standards.
- E. Outdoor kennels must be screened from view from neighboring residential properties by evergreen landscaping material or opaque fencing six (6) feet in height.  
Any outdoor lighting must be shaded to avoid shining on any adjacent properties or roadways.
- F. See Section 1603 on Exemptions.

**Section 403: Antique Shop**

- A. The use is carried on only by two members of the family. Employees other than the resident of the dwelling are not permitted;
- B. The use is carried on within the principal dwelling structure or in accessory structures;
- C. Exterior displays or signs, other than those normally permitted in the district, and / or exterior storage of materials are not permitted;
- D. Parking is provided off-street and is located in the driveway or in the rear yard of the primary living unit;
- E. The use is incidental to the primary residential use and seasonal / occasional in nature.

**Section 404: Auto Service Station/Auto Service Station with Retail Store/Mini Mart**

- A. Lot size shall be at least thirty thousand (30,000) sq. ft.
- B. An auto service station lot shall not be located within three hundred (300) feet of any lot occupied by a school, library, or religious institution.
- C. Lot frontage shall be at least one hundred fifty (150) feet.
- D. Lot depth shall be at least one hundred twenty five (125) feet.
- E. Pumps, lubricating and other service devices shall be located at least fifty (50) feet from the front line and side and rear lot lines.
- F. All fuel shall be stored underground and at least twenty five (25) feet from any property line; oil and kerosene shall be stored at least twenty five (25) feet from any property line.
- G. All automobile parts and dismantled vehicles are to be stored within the building.
- H. No signs shall extend beyond the pumps, nor exceed twenty (20) feet in height.
- I. There shall be no more than two access driveways from the street, including corner lots. The maximum width of each access driveway shall be twenty-five (25) feet.
- J. No repair work is to be performed outside of a building.
- K. Auto service centers with minimarts must provide additional parking spaces at the rate of two (2) spaces for each one thousand (1,000) sq. ft. of leasable floor area in addition to those required in Article VI.

**Section 405: Club or Lodge, Private**

- A. There shall be a minimum lot area of two (2) acres.
- B. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.

- C. There shall be a minimum of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.
- D. Where possible, entrances and exits to the parking lot shall be on non-residential streets.
- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. All driveways, entrances and exits shall be located a minimum of seventy-five (75) feet from any street intersections.

**Section 406: Community Care Facility**

- A. There shall be a minimum lot area of twenty-thousand (20,000) square feet.
- B. The total lot coverage of all buildings shall not exceed thirty percent (30%) of the area of the lot.
- C. There shall be minimum front, side and rear yards of twenty five (25) feet.
- D. The maximum number of persons permitted on any one lot shall not exceed twenty (20). This does not include staff members except those that reside at the facility.
- E. In addition to the requirements set forth above for yards, there shall be provided four hundred (400) square feet of usable open space per person.
- F. The conversion of existing housing in the Village Districts into a community care facility is permitted provided municipal water and sewer facilities are available for the increased number of residents.
- G. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.

**Section 407: Contractors Yard (Large Equipment)**

- A. There shall be a minimum lot area of five (5) acres.
- B. No more than eight (8) licensed and operating vehicles shall be kept on the premises. All vehicles must be stored overnight in a garage or fenced enclosure, or screened from public view.
- C. All construction equipment, machinery and building and landscaping materials must be suitably garaged, fenced or screened from public view.
- D. When a contractor's yard adjoins a residential property, the common boundary must be heavily landscaped to reduce visual impacts, noise, dust accumulation and dust scattered. The landscape material so planted must be maintained in a healthy condition.

**Section 408: Cottage Industry**

- A. The minimum lot size shall be at least two (2) acres.
- B. The minimum setback from the lot lines shall be at least two hundred (200) feet.
- C. No more than fifty (50) percent of a dwelling or an accessory structure may be used for a cottage industry.
- D. The use does not change the character of the area.
- E. The dwelling, accessory buildings and the lot maintain a residential appearance at all times.
- F. The cottage industry is clearly secondary to the use of the site for residential purposes.
- G. The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.

- H. No more than two (2) employees, in addition to the principal owner, shall be permitted.
- I. The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.

**Section 409: Crematoriums**

- A. Applications for a crematorium must demonstrate compliance with all State and Federal requirements.
- B. There shall be a minimum lot area of 2 acres.
- C. The minimum setback of the building from any neighboring lot line shall be 200 feet.

**Section 410: Elderly Housing Complex**

- A. Where the regulations of this section differ from other sections of the zoning, subdivision, and site plan regulations, the provisions of this section shall take precedence. An elderly housing complex shall also comply with the provisions of the Fair Housing Act, as amended, 42 U.S.C. Sec. 3601 et seq. Applicable elderly housing regulations, as amended, of the U.S. Department of Housing and Urban Development shall also be complied with.
- B. The purpose of an elderly housing complex shall be to provide safe, affordable, comfortable, and efficient housing for elderly residents in an easily accessible, centrally located, pedestrian friendly environment in proximity to necessary support services such as food stores, pharmacies, medical facilities, public transportation, voting places, post offices, libraries, senior centers, and places of worship.
- C. Each Elderly Housing Complex shall comply with the following standards:
  - 1. Density  
All buildings in an Elderly Housing Complex shall be located on the same lot. The lot shall be under common ownership.

a. Minimum Buildable Lot Size per Elderly Housing Complex

<b>Town Water and Sewer</b>	<b>Town Water or Sewer</b>	<b>On-Site Water and Sewer</b>
15,000 s.f.	25,000 s.f.	40,000 s.f

b. Minimum Buildable Land Area per Dwelling Unit

<b>Town Water and Sewer</b>	<b>Town Water or Sewer</b>	<b>On-Site Water and Sewer</b>
3,000 S.F./1-Bedroom Unit	5,000 S.F./1-Bedroom	8,000 S.F./1-Bedroom Unit
3,500 S.F./2- Bedroom Unit	6,000 S.F./2- Bedroom Unit	9,000 S.F./2- Bedroom Unit

c. Minimum & Maximum Gross Floor Area per Dwelling Unit

<b>Dwelling Unit Type</b>	<b>Minimum Gross Area</b>	<b>Maximum Gross Area</b>
1- Bedroom Unit	650 Gross Square Feet	1,000 Gross Square Feet
2- Bedroom Unit	700 Gross Square Feet	1,200 Gross Square Feet

All Elderly Housing Complexes and dwelling units shall comply with federal and state handicapped accessibility requirements.

d. Occupancy Limits per Dwelling Unit Type

<b>Dwelling Unit Type</b>	<b>Maximum Occupancy</b>
1- Bedroom Unit	No more than 2 (two) occupants
2- Bedroom Unit	No more than 2 (two) occupants

2. Parking Requirements
  - a. Resident Parking Requirements:
    - i. 1 parking space per 1-bedroom unit
    - ii. 1 1/2 parking spaces per 2-bedroom unit
  - b. Visitor Parking Requirements:
    - i. 1 parking space per every 4 dwelling units of any type
  - c. Location
    - i. All parking spaces shall be located on site in places that provide convenient access to the dwelling units.
3. Site Plan Review
  - a. Elderly Housing Complexes shall be reviewed under the Site Plan Review regulations of this ordinance with particular attention being given to adequate lighting, sufficient sidewalks, and safe ingress/egress for vehicular traffic.
  - b. A canopied drop-off area may be permitted within the required setback area or front yard of the complex for the convenience of the elderly residents.
  - c. The architectural design and arrangement of buildings shall be residential in character and consistent with the appearance of the community in general and the neighborhood in particular.
  - d. The perimeter of each Elderly Housing Complex shall be reserved as a 20 foot wide landscape buffer zone with new plantings or existing natural vegetation.
  - e. The Development Review Board may require that all roads within the Complex be built in accordance with the “Public Works Road Specification Standards.”
  - f. On-site laundry facilities shall be required.
4. Setback & Height Requirements
  - a. All buildings within an Elderly Housing Complex shall be located at a minimum distance of 20 feet from all property lines and other buildings on the same lot.
  - b. All buildings within an Elderly Housing Complex shall comply with the height requirements of the zoning district in which they are located.
5. Legal Documentation
  - a. Homeowner’s Association

- i. The developer of each Elderly Housing Complex shall be responsible for establishing a homeowners' association and bylaws under applicable state law. The document shall give special attention to the unique needs of elderly people and shall ensure that the elderly residents of the complex will receive adequate and appropriate services. The document shall be submitted during site plan review to the Development Review Board for their review and approval. The developer shall bear the sole expense of creating the document. The Homeowners' Association document shall at all times comply with relevant local, state, and federal regulations.

b. Federal Compliance

- i. As part of the site plan review process, the developer of each Elderly Housing Complex shall be responsible for filing a report with the Development Review Board describing how the project complies with the provisions of all applicable federal regulations that affect the project.

**Section 411: Food and Beverage Processing Facility**

- A. There shall be a minimum lot area of two (2) acres.
- B. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.
- C. There shall be a minimum of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.
- D. Where possible, entrances and exits to the parking lot shall be on non-residential streets.
- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. All driveways, entrances and exits shall be located a minimum of seventy-five (75) feet from any street intersections.

**Section 412: Garages on Nonconforming Lots with Existing Residences**

- A. There must be a residence that was already in existence at the time of adoption of these regulations.
- B. The garage must be located in a manner that, within the constraints imposed by the lot size and location of residential structure, is consistent with the purposes and objectives of this Regulation and the District in which it is located.
- C. There is minimum intrusion into the front, side and rear yard requirements of the particular District.

**Section 413: Hotel/Motel**

- A. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.
- B. There shall be a minimum of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.

- C. Entrances and exits shall be on non-residential streets and shall be located a minimum of seventy-five (75) feet from any street intersection.
- D. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.

**Section 414: Mobile Home Parks**

Mobile homes are permitted in approved mobile home parks subject to the requirements of this section and state law. Mobile home parks where permitted as a conditional use in the specific zoning district are subject to review. New mobile home parks and any addition or alteration to an existing mobile home park, requires conditional use approval by the Development Review Board. The following requirements shall apply to mobile home parks:

- A. The minimum size for a mobile home park shall be 10 acres and shall have at least 2.5 acres per individual mobile home lot.
- B. A mobile home park shall consist of no more than 10 mobile home lots.
- C. Each mobile home lot shall be at least 20,000 square feet in area
- D. Minimum setbacks shall be 15 feet from all mobile home lot edges. All buildings not physically connected to a mobile home must be at least fifteen (15) feet from all buildings.
- E. The access right-of-way width to the Park and its Lots shall be a minimum of fifty (50) feet with the traveled portions of the road to be at least twenty four (24) feet in width. There shall be a minimum road base depth of fifteen (15) inches of gravel within the right of way. The Right of Way shall have suitable grade and alignment to allow for servicing of the Lots by fire, rescue, utility and other vehicles ordinarily and necessarily incident to such use and shall be maintained by the owner to town road standards.
- F. At least two (2) off street parking spaces shall be provided for each mobile home. Minimum surface treatment of such parking spaces shall be gravel. The space may be included in the minimum lot area requirement and shall be indicated on the site plan.
- G. Suitable provisions shall be made for the protection of pedestrian traffic.
- H. The park shall be located on a site graded to insure adequate drainage of surface water, sub-surface water, sewage and freedom from stagnant pools.
- I. Roadways shall be well drained, and at least eighteen feet in width shall be graveled, hard surfaced or paved, and maintained in good condition throughout the year.

**Section 415: Motorcoach and/or Camper Trailer Park**

- A. A camper-trailer park shall have a minimum contiguous land area of not less than five (5) acres.
- B. The park shall provide access driveways, lots for the vehicles, and parking for the towing vehicle.

- C. Each vehicle lot shall be at least two thousand five hundred (2,500) square feet in area.
- D. Each vehicle lot shall be at least fifty (50) feet in width and have a compacted gravel surface at least twenty (20) feet in width. Such compacted gravel surface shall be replaced by a paved surface if the lot is to be used or available for use more than seven months in a year.
- E. All access driveways within the park shall be at least thirty (30) feet in width with a compacted gravel surface at least twenty (20) feet in width if used for two-way traffic or twenty (20) feet wide with a compacted gravel surface at least twelve (12) feet wide if used for one-way traffic. The compacted gravel surface shall be replaced by a paved surface if the park is open more than seven (7) months a year.
- F. Each lot shall be located within four hundred (400) feet of a water faucet providing clean potable water with adequate pressure.
- G. Showers, toilets, and sewage disposal facilities shall be available to the users of the lot. The number of showers and toilets and the method of sewage disposal for the entire park must be approved by the appropriate State agency prior to the issuance of a permit.
- H. Each lot shall be provided with a metal garbage can with cover. The contents of the garbage can shall be removed on a daily basis.
- I. No lot, office, or service building shall be located closer than one hundred (100) feet from a public street right-of-way or fifty (50) feet from any other property line. All boundaries of the park shall be landscaped with existing or newly planted trees or other plant materials.
- J. No camper trailer or motorcoach shall be parked on a lot closer than ten (10) feet from its lot lines.
- K. A motorcoach or camper-trailer park shall have at least ten (10) percent of its total area as open space recreational use.
- L. All parks not equipped for year-round use shall be closed between December 1 and March 1.
- M. Each lot shall be located in a dry and well-drained area.
- N. All roads within the site shall be of sufficient grade and alignment so as to permit safe traffic flow at all times. The design of roads shall be adequate to provide for the use of police, fire, ambulance, and other emergency vehicles. Proper traffic control signs shall be established as is consistent with the public safety.

**Section 416: Multi-Family Dwelling**

- A. When served by a municipally operated water and sewage disposal system, the minimum lot size shall be five thousand (5,000) square feet per dwelling unit.
- B. In districts not served by municipal water and sewer a maximum of five (5) dwelling units is permitted.
- C. Dimensional requirements of the appropriate district shall apply to the overall lot. When not served by a municipally operated water and sewage disposal system the applicant shall also meet applicable local and state regulations for on-site water and sewage disposal systems.
- D. The conversion of any existing single-family house into 3 or more units will require a local water and or sewer permit where such system is available. Additional parking standards must be met as set forth in Article VI.

**Section 417: Nursing Homes**

- A. There shall be a minimum lot area of twenty-thousand (20,000) square feet.
- B. The total lot coverage of all buildings shall not exceed thirty percent (30%) of the area of

the lot.

- C. There shall be minimum front, side and rear yards of twenty five (25) feet.
- D. The maximum number of persons permitted on any one lot shall not exceed thirty (30). This does not include staff members except those that reside at the facility.
- E. In addition to the requirements set forth above for yards, there shall be provided four hundred (400) square feet of usable open space per person.
- F. The conversion of existing housing into a community care facility is permitted provided municipal water and sewer facilities are available for the increased number of residents.
- G. Off-street parking shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.

#### **Section 418: Recreation Facility**

- A. There shall be a minimum lot area of one (1) acre unless a greater lot area is required by Article V.
- B. The total lot coverage shall not be more than thirty percent (30%) of the area of the lot.
- C. There shall be minimum front, side and rear yard setbacks of twenty-five (25) feet.
- D. In addition to the yard requirements above, every building shall be set back a minimum distance of one hundred (100) feet from any adjacent residential property line.
- E. No building shall be erected to a height in excess of two (2) stories.
- F. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.

#### **Section 419: Renewable Energy Structures**

To provide for the development of clean, renewable energy resources while protecting the public health, safety, and welfare of the community, any power generating plants and transmission facilities not regulated under 30 V.S.A § 248 shall be subject to the following conditions.

For the purposes of these regulations, Renewable Energy Structures are hereby defined as small-scale power generation facilities, including small wind turbines and solar arrays. Individual solar panels and thermal collectors are considered accessory structures and are not regulated under this subsection.

- A. For lots smaller than one-half acre in area, small wind turbines shall be roof mounted and cannot be higher than forty-five feet above the ground to the highest point of the rotor or blade. The maximum rotor diameter for small wind turbines shall be six feet.

For lots between one-half acre and one acre, the tower height shall be limited to one hundred feet, or twenty feet above the tree line, whichever is lower.

For lots greater than one acre or more, the tower height shall be limited to 120 feet or forty feet above tree line, whichever is lower.

- B. Wind turbines shall be set back from all property lines, buildings, and public rights of way for a distance equaling their total height, including blades, unless otherwise specified by the Development Review Board.

- C. Solar arrays shall be set back from all property lines, buildings, and public rights of way in accordance with the district in which the project is located, as set forth in Article V: Lot Size, Setbacks, Yards.
- D. No solar array or wind turbine shall be located or operated in such a manner that it poses a potential threat to public health or safety.
- E. Solar arrays and wind turbines shall be carefully sited to ensure that they are not prominently visible in areas and viewsapes identified as having high scenic value in the Poultney Town Plan.
- F. All abandoned or unused solar arrays, wind turbines and associated facilities shall be removed within 6 months of the cessation of operations at the site, and the site shall be restored to its original appearance.
- G. No solar array or wind turbine is permitted that requires any lighting under federal, state, or local law.
- H. Solar panels in an array shall not emit unreasonable glare that would negatively impact adjacent properties.
- I. *Notice to neighbors:* Two weeks prior to submitting any application for approval of a solar array or small wind turbine, the applicant shall send a letter providing notice of the proposal, with a certificate of mailing, to all abutting neighbors and any neighbor whose house is within 500 feet of the proposed small wind turbine location. It is recommended that the applicant meet with municipal staff before preparing the application and that the applicant meet in person with the neighbors to explain the proposal.
- J. *Information to be submitted:* All applications shall include the information required for a site plan approval pursuant to Article XIII. In addition, the applicant shall submit:
  - (1) A plot plan showing:
    - (i) Property lines and topographic features of the subject property.
    - (ii) Location, dimensions, and types of existing structures on the property;
    - (iii) Location of the proposed solar array or wind system tower, foundations, guy anchors, and associated equipment;
    - (iv) The right-of-way of any public road that is contiguous with the property; and
    - (v) Any overhead utility lines;
  - (2) Solar array or small wind turbine system specifications, including manufacturer and model, rotor diameter, tower height, and tower type—freestanding or guyed.

**Section 420: Restaurant**

- A. There shall be a minimum lot area of two (2) acres.
- B. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.
- C. There shall be a minimum of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.
- D. Where possible, entrances and exits to the parking lot shall be on non-residential streets.

- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. All driveways, entrances and exits shall be located a minimum of seventy-five (75) feet from any street intersections.

**Section 421: Retail Store**

- A. There shall be a minimum lot area of two (2) acres.
- B. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.
- C. There shall be a minimum of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.
- D. Where possible, entrances and exits to the parking lot shall be on non-residential streets.
- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. All driveways, entrances and exits shall be located a minimum of seventy-five (75) feet from any street intersections.

**Section 422: Sand, Gravel and Soil Extraction**

- A. There shall be a minimum lot area of five (5) acres.
- B. A performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive, and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end.
- C. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property. All provisions to control natural drainage shall meet with the approval of the Zoning Administrator.
- D. No excavation, blasting, or stock piling of materials shall be located within two hundred (200) feet of any street or other property line.
- E. No power-activated sorting machinery or equipment shall be located within two hundred (200) feet of any street or other property line.
- F. The creation of pits or steep slopes shall not be permitted unless provisions are made to refill each pit or cut the sides of steep slopes in a manner which will ensure public safety and prevent erosion. Earth slopes greater than 2 horizontal/1 vertical shall not be allowed to remain. Excavation and open pit extraction sites shall be graded, fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation to prevent erosion. Such work shall be inspected and approved by the Zoning Administrator prior to the release of any bond.
- G. A sand or gravel pit on a farm shall be termed accessory to an agricultural use and shall not be subject to provisions (B) and (F) of this Section, if all of the following requirements are met:
  - 1. Provisions (C) and (D) are complied with.
  - 2. The excavation area is confined to one-half acre or less.
  - 3. No trucks whose primary function is hauling sand, gravel, or soil are kept on the premises.

- 4. The sand or gravel pit is not a primary source of income for the owner.
- 5. No power-activated sorting machinery or equipment is located on the premises.
- H. Loads per truck shall not exceed the weight limits of the roads over which the truck will travel within Poultney.
- I. Load must be covered when off-site or loaded so as not to spill while en route.
- J. The facility shall operate only during daylight hours.

**Section 423: Self Storage Facilities**

- A. Storage buildings shall be located on a dry and well drained site.
- B. There shall be a minimum lot area of 10 acres in the ARR-2 Zoning District. There shall be a minimum lot area of 2 acres in the Village Industrial and Industrial Zoning Districts.
- C. The minimum setback from the highway shall be 150 feet, except in the Village Industrial and Industrial Zoning Districts.
- D. The minimum setback of the building from the neighbors lot line shall be 200 feet, except in the Village Industrial and Industrial Zoning Districts.
- E. The access route from a paved highway shall not exceed 250 feet to the driveway.
- F. Roofs shall peaked. The maximum height of the storage building shall be 13 feet (includes the peak).
- G. Color of the storage buildings shall be beige or green.
- H. Screening shall consist of spruce, fir or hemlock trees planted at 8 ft centers, every other row, staggered at least 3 rows, 5 feet in height.
- I. Where natural or artificial features of the terrain do not obscure buildings from the highway and from immediate neighbors, screening shall be provided.
- J. Non-vehicular storage of flammable substances is prohibited.
- K. Storage buildings are to be readily accessible by adjoining driveways with provisions for easy access and exit of emergency vehicles.
- L. Hours of operation shall be no earlier than 7:00 A.M. and no later than 9:00 P.M.
- M. Use shall not generate excessive traffic noise, fumes or activity that might constitute a nuisance.
- N. A covered trash receptacle shall be conveniently located for use by clients.

**Section 424(A): Slate Mining at Pre-existing Slate Quarries**

For purposes of these Bylaws, a “Pre-Existing Slate Quarry” is any slate extraction area, pit, hole or quarry for which registration documents have been filed with the State of Vermont pursuant to 10 V.S.A. § 6081(b)(1) et seq., and which registration documents have been recorded in the office of the town clerk, together with (1) all associated roads, dumps, waste, rubbish or slag piles, activities, operations, buildings, improvements, infrastructure or replacements thereof, and (2) any future improvements, buildings, structures or infrastructure associated with the same, the construction or establishment of which is required to comply with any federal or state law, rule or regulation. New quarry holes or pits established on a parcel of land containing a Pre-existing Slate Quarry shall not be considered part of the Pre-existing Slate Quarry.

- A. Notwithstanding any provision of these Bylaws, slate mining at and related use of a Pre-existing Slate Quarry and the parcel of land containing the same may continue without any permit or approval under these Bylaws notwithstanding that the associated pits, extraction areas, holes or quarries, so long as the same are in compliance with the setback established in Subsection B(1) and B(2) herein, 1) may expand or increase in size and depth, 2) may expand onto additional parcels of land or into a different zoning district, or 3) that activity associated with the same may fluctuate or intensify over time. Cessation of use of or activity at a Pre-existing Slate Quarry shall not be deemed abandonment of the same or discontinuance of a non-conforming use or structure under Sections 706 and 707 et seq. hereof.
- B. Pre-existing Slate Quarries shall not be subject to the setback, coverage, height or other technical or dimensional limitations of these Regulations except that (1) there shall be a 20 foot setback from the edge of any slate pit, extraction area, hole or quarry to the property line; (2) there shall be a 100 foot setback from the edge of any slate pit, extraction area, hole of quarry to any residential structure located on a contiguous parcel in existence on June 1, 2018; and (3) any new buildings after June 1, 2018 which are built on a parcel containing a Pre-existing Slate Quarry shall observe a 40 foot setback from the property line. Any access road(s) or equipment operation used or conducted in connection with a slate pit, extraction area, hole or quarry, is exempt from the 20 foot setback contained herein. The foregoing setbacks may be waived by a notarized statement signed by the property owners which is recorded in the Poultney Land Records and filed with the Poultney Zoning Administrator.
- C. The setbacks prescribed in Subsection B above may be waived by a notarized statement signed by the property owners which is recorded in the Poultney Land Records and filed with the Poultney Zoning Administrator.
- D. A gate or other barrier sufficient to block vehicular access by the general public shall be maintained at any vehicular access point at any pit, extraction area, hole or quarry.
- E. Weights of loaded trucks exiting slate quarries shall comply with posted weight limits for Town Highways unless overweight permit is first obtained from the Town.

**Section 424(B): Slate Mining other than at Pre-Existing Slate Quarries**

- A. There shall be a setback of 40 feet between the edge of new slate extraction areas, quarry holes, pits, dumps and buildings and 1) the edge of the travelled portion of any public road or right-of-way and 2) the property line of any parcel of land containing an occupied residential dwelling in existing on June 1, 2018.
- B. There shall be a setback of 100 feet between the edge of new slate extraction areas, quarry holes, pits, dumps and any residential dwelling on a contiguous parcel in existence on June 1, 2018.
- C. The setbacks prescribed in Subsections A and B above may be waived by a notarized statement signed by the property owners which is recorded in the Poultney Land Records and filed with the Poultney Zoning Administrator.
- D. A gate or other barrier sufficient to block vehicular access by the general public shall be maintained at any vehicular access point at any pit, extraction area, hole or quarry.
- E. Weights of loaded trucks exiting slate quarries shall comply with posted weight limits for Town Highways unless overweight permit is first obtained from the Town.

**Section 424(C): Deeded Mineral and Dumping Rights**

The setbacks set forth in Sections 417(A) and 417(B) herein shall in no way interfere with, contravene, revise, replace, amend, supersede, or otherwise change, any mineral or dumping rights granted by deed.

**Section 425: Slate Processing**

All end state sawing and trimming of slate blocks into final, marketable products shall be conducted within an enclosed structure which may have portions open to the outside.

**Section 426: Vehicle/Repair, Garage**

- A. A vehicle repair garage shall not be located within one hundred fifty (150) feet of a residential structure or within three hundred (300) feet of any school, library or religious institution.
- B. Lot depth shall be at least one hundred twenty-five (125) feet.
- C. All parts and dismantled vehicles are to be stored within a building.
- D. No repair work is to be performed outside of a building.
- E. The facility shall operate only during daylight hours.

**Section 427: Veterinarian with Animal Boarding**

- A. The minimum lot size shall be five (5) acres.
- B. The minimum setback of structures housing the animals shall be two hundred (200) feet from any adjacent residential property line.
- C. Animal excrement, waste and remains shall be disposed of in a proper and sanitary manner.
- D. All standards set forth in Article XV, Section 1529: Performance Standards.
- E. Outdoor kennels must be screened from view from neighboring residential properties by evergreen landscaping material or opaque fencing six (6) feet in height.
- F. Any outdoor lighting must be shaded to avoid shining on any adjacent properties or roadways.

**Section 428: Warehouse**

- A. There shall be a minimum lot area of two (2) acres.
- B. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.
- C. There shall be a minimum of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.
- D. Where possible, entrances and exits to the parking lot shall be on non-residential streets.
- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. All driveways, entrances and exits shall be located a minimum of seventy-five (75) feet from any street intersections.

**Section 429: Wireless Telecommunications Facilities**

- A. Definition and Purpose
  - 1. Wireless telecommunication facilities shall include all wireless telecommunication

providers, licensed and/or regulated by the Federal Communications Commission, and associated equipment and buildings. The purpose of this section is to ensure appropriate review and oversight of wireless telecommunications towers and associated infrastructure, to protect the scenic, historic, environmental, and residential resources and qualities of the community, and to minimize the visual and environmental impacts of these facilities, all within the confines dictated by federal law.

B. Definitions

Glossary of telecommunications terms can be found in part Q of this section.

C. Permitted and Prohibited Locations

1. Freestanding telecommunications towers or antennas over 20 feet in height may not be located in any of the following locations:

- a) Within 100 ft. of a State or Federally designated wetland.
- b) The habitat of any State listed Rare or Endangered Species.
- c) Closer than 300 ft. horizontally to any structure existing at the time of the application which is used as either a primary or secondary residence, to the property of any school, or to any other building.
- d) Within 100 ft. horizontally of any river or perennial stream.
- e) Village Districts (VR, VC, VI), the Northeast Conservation and Wildlife Habitat Area Overlay District (CD), and Rural Residential 1-Acre Zoning District (RR 1), as defined in the Poultney Town Plan and detailed in Poultney's zoning regulations.

D. Small Scale Facilities / Exemptions

1. The placement of wireless telecommunications antennas, repeaters or micro-cells on existing buildings, structures, roofs, or walls, including, but not limited to church steeples, barn silos, and slate quarry masts and not extending more than 10 feet from the same, or the installation of ground facilities less than 20 feet in height, may be approved by the Zoning Administrator, provided the antennas meet the applicable requirements of this section, upon submission of:

- a) A final site and building plan.
- b) A report prepared by a qualified engineer indicating the structure's suitability for the telecommunications facility, and that the proposed method of affixing the antenna or other device to the structure complies with standard engineering practices. Complete details of all fixtures and couplings and the exact point(s) of attachment shall be indicated.
- c) For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure. However no such device may be located closer than 50' horizontally to an existing residence.

2. The following telecommunications facilities are exempt from the requirements of this ordinance: police, fire, ambulance, and other emergency dispatch; amateur (ham) radio, citizens-band radio, single-use local business radio dispatch, and television antennas for home use.

3. No FCC licensed telecommunications facility shall be considered exempt from this ordinance for any reason, whether or not said facility is proposed to share a tower or other structure with such exempt uses.

E. Application Requirements for Wireless Telecommunications Facilities not Covered Under Section D

Pursuant to the Act the Development Review Board of the Town of Poultney is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities, including sketch, preliminary and final plans, and installation. Also pursuant to the Act, the Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

1. An applicant for a permit must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Zoning Administrator at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.
2. In addition to information otherwise required in these Unified Bylaws and the Poultney Town Plan, applicants for wireless telecommunications towers or facilities shall include the following supplemental information:
  - a) The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.
  - b) The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.
  - c) The names and addresses of the record owners of all abutting property.
  - d) A report from qualified engineers that:
    - A. Specifies the facility height, design and elevation.
    - B. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas.
    - C. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate.
    - D. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures, or other structures proposed by the applicant within 5 miles of the proposed site cannot reasonably provide adequate coverage and adequate capacity to the Town of Poultney. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify

that other locations will not be suitable.

- E. Demonstrates that the applicant has analyzed the feasibility of using "repeaters" or micro-cells in conjunction with all facility sites listed in compliance with Section E. iv (above) to provide coverage to the intended service area.
  - F. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
  - G. Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
  - H. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town.
  - I. Demonstrates the tower's compliance with Poultney's structural standards and setbacks for towers and support structures.
  - J. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure. The Development Review Board may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.
  - K. Includes other information required by the Board that is necessary to evaluate the request. Includes an engineer's stamp and registration number, where appropriate.
  - L. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
- e) Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed facility site.
  - f) Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights of way needed for access from a public way to the facility.
  - g) Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
  - h) Elevations showing all facades and indicating all exterior materials and

color of towers, buildings and associated facilities.

- i) Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way and any adjacent property from which it may be visible. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
  - j) In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
  - k) Construction sequence and time schedule for completion of each phase of the entire project.
- 3. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure.
  - 4. To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
  - 5. A copy of the application or draft application for an Act 250 permit, if applicable.

Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.

#### F. Collocation Requirements

- 1. An application for a new wireless telecommunications facility shall not be approved unless the Development Review Board finds that the facilities planned for the proposed structure cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:
  - a. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
  - b. The proposed antennas and equipment would cause interference materially effecting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer and such interference cannot be mitigated at a reasonable cost.
  - c. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create excessive radio frequency exposure.
  - d. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too

far from the area of needed coverage to function reasonably as documented by a qualified engineer.

- e. To locate the planned telecommunications equipment upon an existing or approved tower or building would be aesthetically objectionable.
  - f. There is no existing or approved tower in the area in which coverage is sought.
  - g. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
2. Towers must be designed to allow for future placement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally and in all other respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

#### G. Access Roads and Above Ground Facilities

Where the construction of new wireless telecommunications towers and facilities requires construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within forest or forest fringe areas, and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The Town may require closure of access roads to vehicles following facility construction where it is determined that site conditions warrant the same and where maintenance personnel can reasonably access the facility site on foot.

#### H. Tower and Antenna Design Requirements

- 1. Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of facilities shall not exceed that which is essential for the intended use and public safety.
  - a. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color. Use of stealth design, including those, which imitate natural features, may be required in visually sensitive locations.
  - b. In addition to other standards herein, no tower or structure related to the facility shall exceed 130 feet in height. Towers, antennas and tower-related fixtures shall not be more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. The Development Review Board may approve additional height if it is necessary to provide adequate coverage in the Town

of Poultney or to accomplish collocation of facilities and provided that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

- c. Towers, antennas and any necessary support structures shall be designed to avoid having an undue adverse aesthetic impact on prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the Board will consider:
  - i. the period of time during which the proposed tower would be viewed by the traveling public on a public highway;
  - ii. the frequency of the view experienced by the traveling public;
  - iii. the degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
  - iv. background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
  - v. the distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
  - vi. the sensitivity or unique value of a particular view affected by the proposed tower;
  - vii. significant disruption of a view-shed that provides context to a historic or scenic resource.

The Board may require that an alternative location for the tower be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. [In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's communication objectives.]

- d. All buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Board) shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this bylaw.
- e. The minimum setback requirements for any telecommunications tower or associated structure shall be as required in the applicable zoning district, plus an additional setback equal to the height of the tower (the "fall zone").
- f. Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood.

A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity.

Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved.

Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

- g. The location and type of security fencing, if necessary, shall be shown and described on the site plan.

#### I. Amendments to Existing Wireless Telecommunications Facility Permit

- 1. An alteration or addition to a previously approved wireless telecommunications facility shall require a permit amendment when any of the following are proposed:
  - a. Change in the number of buildings or facilities permitted on the site;
  - b. Addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

#### J. Tower Lighting and Signage; Noise Generated by Facility

- 1. Unless required by the Federal Aviation Administration ("FAA"), no lighting of towers is permitted. In any case where a tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant. Heights may be reduced to eliminate the need for lighting or another location selected.
- 2. No commercial signs or lettering shall be placed on a tower or facility. Signage shall be limited to that required by federal or state regulation.
- 3. The Board may impose conditions to minimize the affect of noise from the operation of machinery or equipment upon adjacent properties. The Board may require the applicant to provide a study from a qualified engineer as to the maximum projected noise from the proposed facility, measured in DB Ldn (decibels, logarithmic scale, accounting for greater sensitivity at night). This study shall include existing or ambient measurements, plus noise (audio and electronic) that may be created or caused by the proposed facility.

#### K. Temporary Wireless Communication Facilities

- 1. Any wireless telecommunications facility designed for temporary use is subject to the following:
  - a. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Poultney.
  - b. Temporary facilities are permitted for no longer than five days use during a special event.

- c. The maximum height of a temporary facility is 50 feet from grade.
- d. Temporary facilities must comply with all applicable portions of these regulations.

L. Continuing Obligations

- 1. Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding radio frequency exposure, and provide the basis for his or her representations.

M. Facility Removal

- 1. Abandoned, unused, obsolete, or noncompliant towers or facilities governed under these regulations shall be removed in accordance with the following:
  - a. The owner of a facility/tower shall annually, on January 15, file a declaration with the Town of Poultney's Zoning Administrator certifying the continuing safe operation of every facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and considered abandoned.
  - b. Abandoned or unused towers or facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Development Review Board. In the event the tower or facility is not removed within 180 days of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
  - c. Towers and facilities which are constructed in violation of permit conditions or application representations shall be removed within 180 days of cessation of operations at the site unless a time extension or negotiated solution is approved by the Development Review Board. In the event the tower or facility is not removed within 180 days of notification of such a violation, the municipality may remove the tower or facilities. Costs of removal shall be assessed against the property or tower owner.
  - d. An owner who has failed to file an annual declaration with the Zoning Administrator by January 15 may, by February 15, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.
  - e. The Applicant shall, as a condition of the conditional use permit, provide a financial surety bond payable to the Town of Poultney and acceptable to the Board to cover the cost of removal of the facility and remediation of the landscape, should the above clauses be invoked.

N. Maintenance Requirements

- 1. The Applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping. In the event the applicant fails to maintain the facility, the Town of Poultney may undertake such maintenance at the expense of the applicant or landowner.

O. Insurance Requirements

1. The facility owner shall maintain adequate insurance on all facilities.

P. Fees for filing an application to build or alter a wireless telecommunications facility shall be \$150 for small-scale facilities (see Section D) and \$300 for all other facilities. Additional fees may include the reasonable costs of an independent technical assessment of the application that may be incurred during the review and permitting process.

Q. Glossary of Telecommunications Terms

**Adequate Capacity:** Capacity for wireless telephony is considered to be "adequate" if the grade of service ("GOS") is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

**Adequate Coverage:** Coverage for wireless telephony is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

**Affiliate:** When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

**Alternative Design Tower Structure:** Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also Stealth Facility).

**Antenna:** A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

**Antenna Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**Antenna Support Structure:** Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

**Applicant:** A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider with the owner's written permission (or other legally designated representative) or the owner of the property.

**Available Space:** The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

**Base Station:** The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

**Bulletin 65:** Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radiofrequency radiation levels and methods to determine compliance.

**Cell Site:** A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include others uses associated with and ancillary to cellular communications transmission.

**Cellular Service:** A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

**Cellular Telecommunications:** A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

**Cellular Telecommunications Facility:** Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

**Channel:** The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

**Collocation:** Locating wireless communications equipment from more than one provider on a single site.

**Common Carrier:** An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated rates.

**Communication Equipment Shelter:** A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

**Communication Tower:** A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

**Communications Facility:** A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

**dBm:** Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

**Directional Antenna:** An antenna or array of antennas designed to concentrate a radio signal in a particular area.

**Dish Antenna:** A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

**Facility Site:** A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

**FCC:** Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

**Frequency:** The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

**GHz:** Gigahertz. One billion hertz

**Hertz:** (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

**Location:** References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

**MHz:** Megahertz, or one million hertz.

**Micro-Cell:** A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

**Microwave Antenna:** A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

**Monitoring:** The measurement, by the use of instruments in the field, of radiofrequency exposure from telecommunications facilities, towers, antennas or repeaters.

**Monopole:** A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

**Omnidirectional Antenna:** An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

**Personal Communications Services or PCS:** Digital wireless telephone technology using higher frequency spectrum than cellular.

**Personal Wireless Services:** Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

**Preexisting Towers and Antennas:** Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

**Radiated-Signal Propagation Studies or Coverage Plots:** Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining a need and whether the telecommunications equipment will provide adequate coverage for that site.

**Repeater:** A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

**Roof and/or Building Mount Facility:** A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

**Self-Supporting Tower:** A communications tower that is constructed without guy wires.

**Spectrum:** Relating to any transmissions or reception of electromagnetic waves.

**Stealth Facility:** Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings. (See also Alternative Design Tower Structure.)

**Structurally Able:** The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

**System:** The communications transmission system operated by a telecommunications service provider in the municipality or region.

**Telecommunications Facility:** All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

**Telecommunications Provider:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**Temporary Wireless Communication Facility:** Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference.

**Tower:** A vertical structure for antenna(s) that provide telecommunications services.

**View Corridor:** A three dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

**Whip Antenna:** A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more).

**ARTICLE V: LOT SIZE, SETBACKS, YARDS**

**Section 501: Table**

DISTRICT		MIN. LOT SIZE	SETBACKS			MIN. LOT FRONTAGE	MIN. LOT DEPTH	MAX. BLDG. HEIGHT
			F	S	R			
UD		25,000 s.f.	20' or Avg*	20'	20'	100'	100'	3 stories or 35'
VR	If use is Permitted	7,500 s.f.	20' or Avg*	15'	15'	75'	100'	3 stories or 35'
	Other	10,000 s.f.	20' or Avg*	15'	15'	100'	100'	3 stories or 35'
VC	If use is Permitted	7,500 s.f.	20' or Avg*	15'	15'	75'	100'	3 stories or 35'
	Other	10,000 s.f.	20' or Avg*	15'	15'	100'	100'	3 stories or 35'
VI	If bordering Residential District	30,000s.f.	30' or Avg*	30'	30'	100'	100'	3 stories or 35'
	Other	30,000 s.f.	20' or Avg*	20'	20'	100'	100'	3 stories or 35'
CC	If use is Permitted	7,500 s.f.	20'	15'	15'	75'	100'	3 stories or 35'
	Other	10,000 s.f.	20'	15'	15'	100'	100'	5 stories or 60'
RR-1		40,000 s.f.	20' or Avg*	20'	20'	100'	100'	3 stories or 35'
ARR-2		80,000 s.f.	20'	20'	20'	150'	100'	3 stories or 35'
ARR-5		Five Acres	20'	20'	20'	150'	100'	3 stories or 35'
ARR-10		Ten Acres	20'	20'	20'	250'	100'	3 stories or 35'
I	Border Res. District	40,000 s.f.	40'	40'	40'	150'	150'	3 stories or 35'
	Other	40,000 s.f.	20'	20'	20'	150'	150'	3 stories or 35'
FH	The provisions of the District contiguous to the FH District shall apply.							
CD	The provisions of the District underlying the CD District shall apply.							
LS	Permitted **	20,000 s.f.	20'	20'	20'	80'	80'	2 stories or 30'
	Other **	40,000 s.f.	20'	20'	20'	100'	100'	2 stories or 30'

\* Use of the Term "Average." In some districts the term "average" (abbreviated as "Avg") is used to measure dimensional requirements in relation to those existing on the block. The dimensional requirement for the proposed use shall be the average of all like dimensions of frontage setbacks on the same block face. Where no development exists, and therefore no setback average can be arrived at, the number designated shall be the standard. In cases where only one source exist for setting the standard, the higher of what is required or existing shall be used.

\*\* Lake Shore Zoning District:

- Maximum Height of structure to include peak of roof is 30', measured from the lowest natural grade adjacent to the structure.
- Setback of structures and driveways to the shoreline must be a 50 ft minimum.
- Attached decks on the lakeshore side of buildings shall extend not more than 50 % of the distance separating the structure from the lakeshore but not exceeding 15 feet in depth.
- Unattached decks on the lakeshore side of buildings shall be constructed no higher than 2 ft above the ground.

**Section 502: Other Restrictions**

- A. For All Zoning Districts - Setback of structures and driveways to a stream bank must be a 50 ft. minimum.
- B. Front yard, side yard and rear yard setback requirements from a private right-of-way are not governed by these Bylaws. Setbacks apply only with respect to property boundaries.
- C. Open decks shall meet a minimum setback (rear yard, side yard) of 10 ft. to property lines. However the structures shall be allowed to encroach in one direction only.
- D. Storage sheds shall meet a minimum setback of 5 ft. to property lines (side yard, back yard).
- E. Storage sheds are considered structures not greater than 10 x 12 ft and are not used as a garage for the storage of cars.
- F. Garages shall meet a minimum 15' setback to property lines (side yard and rear yard).
- G. Front Yard Setback is 20 ft. measured from the edge of the road right-of-way.

## **ARTICLE VI. PARKING AND LOADING**

### **Section 601: Off-Street Parking Space Requirements**

Except as otherwise provided, for every building hereafter erected, extended, or changed in use, there shall be provided off-street parking spaces and off-street loading in accordance with this Article.

- A. A parking space shall be 200 square feet or larger in area, exclusive of drives and aisles.
- B. When fractional spaces result from the computation of required parking and loading spaces, the spaces required shall be rounded up to the next whole number.
- C. All commercial buildings and multi-family dwellings shall be reviewed by the Development Review Board for lighting, protective screening and satisfactory access and egress of driveways.
- D. In residential districts required parking may not be located in the front setback, unless on a driveway on a permitted curb-cut. Pavement and gravel/stone surfaces shall not replace lawns or planted areas in the front setback, exclusive of driveways.
- E. Access to parking, loading, and service areas for commercial and industrial uses shall not be from streets with residentially zoned frontages.
- F. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Shielded fixtures shall be used.
- G. All open off-street parking areas containing more than four (4) parking spaces and all off-street loading areas shall be:
  - 1. screened on each side adjoining or fronting on any property in a residential district, by a wall, fence, or densely planted hedge not less than five (5) feet in height.
  - 2. may require the installation of a system of lighting to provide adequate illumination for the entire parking lot. In all cases, lighting shall be directed away from adjacent residential properties.
- H. A Site Plan Review by the Development Review Board will be required for screening between residential and Industrial Zoning Districts (see Article XIII).

### **Section 602: Modifications in Parking and Loading Requirements**

- A. For uses located in all Village Districts, the Development Review Board may grant an exemption to the parking or loading requirements, in conjunction with site plan approval, only if it finds that:
  - 1. There is adequate on-street parking in close proximity to the use under review;
  - 2. The use under consideration will not generate a significant increase of traffic as compared to the existing use;
  - 3. There is no available land appropriate for parking purposes in close proximity to the property under review;
  - 4. Provisions for deliveries during off-hours can be made so as to not further reduce available on-street parking.

Adjacent property owners/lessors shall be notified of the exemption request and the date and time of the Development Review Board meeting where such request will be considered. Proof of notification shall be given to the Zoning Administrator.

A parking exemption granted in the VC district is applicable only to the use. Any change in use requires reapplication for a parking exemption.

- B. The Development Review Board may adjust parking and loading requirements for shared parking solutions and innovative parking design in other zoning districts. The applicant is required to submit evidence that the parking either conforms to these regulations or is otherwise adequate.

**Section 603: Parking Space Requirements**

Residential	Two (2) spaces per dwelling unit
Home Occupation	Two (2) spaces in addition to the requirement for the dwelling
Bed & Breakfast, Hotel/Motel	One and one quarter (1.25) spaces per lodging unit
Restaurant	One (1) space for each three (3) seats, each three (3) standees and each three (3) employees.
Food and Beverage Processing	One (1) space for each employee, and one (1) space for each three (3) seats
General Office, Retail	Two (2) spaces per one thousand (1,000) square feet of GLA (Gross Leasable Area).
Medical, Dental, Office, Clinic	Three (3) spaces for each full or part-time professional.
Nursing Homes, Community Care	One (1) space for each three (3) beds plus one (1) space for each two (2) employees on the major shift.
Assembly, Recreation Facility or Theater	One (1) space for every three (3) seats or every two hundred square feet of floor area.
Industrial, Warehouse	One (1) space per day shift employee
Daycare	One (1) space per employee
Other Uses	For those uses not defined above the Development Review Board shall use the parking standards published by the Institute of Traffic Engineers, current edition.

**Section 604: Loading and Service Areas.**

- A. Loading facilities shall be provided as follows:
  - Retail businesses and services - One (1) space of at least two hundred fifty (250) square feet for each three thousand (3,000) square feet of floor area or part thereof.
  - Wholesale and industrial uses - One (1) space of at least five hundred (500) square feet for each ten thousand (10,000) square feet of floor area or part thereof.
- B. Loading surfaces shall be paved.

- C. Loading facilities shall be located in the rear or side yards and not encroach on required buffer areas.

## **ARTICLE VII: NONCONFORMITIES**

### **Section 701: Nonconforming Use**

Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in compliance with the provisions of these bylaws, shall be deemed a nonconforming use. Nonconforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an earlier set of less restrictive bylaws. Any nonconforming use may be continued indefinitely, but shall be subject to the provisions of this Article. Those nonconforming uses located within the Flood Hazard Area shall be subject to the provisions of the Article VIII.

### **Section 702: Change of Nonconforming Use**

A nonconforming use may be changed to another nonconforming use only with the approval of the Development Review Board (Board), and then only to a use which, in the opinion of the Board is of the same or a more conforming nature and providing that no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use, it shall not revert to a nonconforming use.

### **Section 703: Extension of a Nonconforming Use**

A nonconforming use may be extended throughout the building, provided no structural alterations or changes are made therein, except those required by law or ordinance (such as mandated environmental, safety, health, or energy codes) or as may be required for safety or necessary to secure or insure the continued advantageous use of the building during its lifetime.

### **Section 704: Enlargement of a Nonconforming Use**

A nonconforming use may be enlarged on the same lot with the approval of the Development Review Board, provided that:

- A. All provisions of these Regulations, except type of use, are complied with;
- B. The Development Review Board determines that the character of the neighborhood will not be changed substantially or adversely effected (see Section 711) by this enlargement;
- C. The total enlargement or the sum of separate enlargements does not exceed thirty (30%) percent of the area of the nonconforming use in existence at the time of the adoption of these Regulations; and,

Examples of enlarged or expanded uses can include increased hours of operation, increased numbers of tables, number of employees or an increase in the size of the operation through the expansion of a complying structure.

### **Section 705: Restoration of a Building Containing a Nonconforming Use**

Any building containing a nonconforming use which has been damaged by any cause, shall only be restored to the pre-existing nonconforming use as long as that restoration is commenced within one (1) year of such damage and completed within three (3) years. If such restoration is not completed within that time, the nonconforming use of such building shall be deemed to have been

discontinued, unless such nonconforming use is carried on without interruption in the undamaged part of the building.

**Section 706: Discontinuance of Nonconforming Use**

Any nonconforming use of land or building which has ceased by discontinuance, or abandonment for a period of one (1) year shall thereafter conform to the provisions of these Regulations. Intent to resume a nonconforming use shall not confer the right to do so unless actual resumption occurs within the specified time period. However, upon review by the Development Review Board, the proposed use may be considered provided that it does not increase the intensity of its nonconforming use and the Board determines that the character of the neighborhood will not be changed substantially by the proposed use.

**Section 707: Nonconforming Structure**

Any legal structure or part thereof, which is not in compliance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a nonconforming structure. Legal nonconforming structures exist as a result of construction prior to adoption of bylaws, or construction under an earlier set of less restrictive bylaws. Any nonconforming structure may be allowed to exist indefinitely, but shall be subject to the provisions of this Article. Those nonconforming structures located within the Flood Hazard Area shall be subject to the provisions of Article VIII.

**Section 708: Maintenance of a Nonconforming Structure.**

A nonconforming structure may be normally maintained and repaired provided that such action does not increase the degree of nonconformance.

**Section 709: Replacement of a Nonconforming Structure.**

The Development Review Board may approve the replacement of a nonconforming structure provided that the structure does not increase its nonconformance with any dimensional requirement.

Any nonconforming structure which has been damaged by any cause, shall only be restored to the pre-existing nonconforming condition as long as that restoration is commenced within one (1) year of such damage and completed within three (3) years.

During review of an application for Replacement of a Nonconforming Structure, the Development Review Board may consider enlargements that comply with Section 710.

**Section 710: Enlargement of a Nonconforming Structure**

A nonconforming structure may be enlarged on the same lot provided that:

- A. The total enlargement or the sum of separate enlargements does not exceed thirty (30) percent of the total area of the nonconforming structure in existence at the time of the adoption of these regulations; and,

- B. The enlargement does not adversely effect the surrounding neighborhood (see Section 711);
- C. The enlargement does not increase the extent of nonconformance by expanding beyond the existing lines of nonconformance further into the side or rear yards, or any height measurements; and,
- D. All other provisions of these Bylaws, except dimensional requirements, are complied with.

**Section 711: Adverse Effects**

In considering whether or not a change, resumption, or expansion of a nonconforming use or structure will adversely effect the surrounding neighborhood, the Development Review Board shall make findings on those of the following factors that the Board deems relevant to the subject application:

- A. The history of use of the lot.
- B. The size and location of adjoining and neighboring lots.
- C. The uses made, or which have received zoning permits to be made, of adjoining lots and the impact of the proposal on those uses.
- D. The location of existing and proposed structures on the lot and the relation of those structures to those on adjoining lots and to the dimensional requirements of the Zoning Regulations.
- E. The objective of the zoning district in which the lot and adjoining lots are located as defined in Article II, Section 201 of these Unified Bylaws.
- F. The suitability of the proposed expanded use or enlargement of a structure to the character of the neighborhood.
- G. Whether an increase in business hours or a change in hours from daytime to nighttime will result and the effect of such an increase or change on adjoining uses and the neighborhood.
- H. Whether the proposed use will result in an increase in noise, fumes, dust, or odors.
- I. Whether greater volumes of vehicular traffic will be generated and what impact this greater volume of traffic will have on the use of adjoining lots, on the neighborhood, and on pedestrian and vehicular safety.
- J. Whether there will be an increase in the number of employees.
- K. Whether there will be an increase in outdoor activity or outdoor storage.
- L. Whether there is adequate off-street parking as required by the Zoning Regulations.
- M. Whether there will be an increase in storm drainage and lighting on adjoining lots and in the neighborhood.
- N. Whether there will be screening or landscaping to lessen any adverse effects on adjoining lots and the neighborhood.
- O. Whether there is an increase in the visibility of the use or structure from adjoining lots and from public ways.
- P. Whether the proposed use is providing a service to the neighborhood.
- Q. Whether there is an increase in safety risk to the neighborhood.
- R. Whether there is a change from seasonal to year-round use.

## **Article VIII: FLOOD HAZARD AREA**

### **Section 801: Purpose**

It is the purpose of this regulation to:

- A. 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 and other flood related hazards; and
- B. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
- C. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- D. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

### **Section 802: Lands to Which These Regulations Apply**

These regulations shall apply in the Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

### **Section 803: Determination of Base Flood Elevations and Floodway Limit**

- A. **Base Flood Elevation (BFE) and Floodway Limits**  
Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

In special flood hazard areas where base flood elevations *have not* been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the base flood elevation at the site. The applicant shall use data provided by FEMA or available from State or Federal agencies.

The regulatory floodway in the Town and Village of Poultney means the Floodway identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, and the channel of the 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 1.00 foot at any point.

- B. **Special Flood Hazard Areas where Floodways have not been determined**
  - 1. In Zones A, AE, AH, and A1 – A30 where floodways have not been determined, development and other encroachments 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 water surface elevation of the base flood more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

2. In Zone A, where neither base flood elevations nor floodways have been determined development and other encroachments 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 water surface elevation of the base flood more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

C. Disputes in Areas and Elevations

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate and shall be used until shown to be otherwise. Rulings by FEMA shall be considered proof for the purposes of this bylaw.

If uncertainty exists with respect to the horizontal boundaries on the map, the location of the boundary shall first be determined by the Zoning Administrator (AO). If the Applicant disagrees with the Zoning Administrator's decision, it can be appealed to the Development Review Board where the applicant shall have the burden of proof. A Letter of Map Amendment or Letter of Map Revision from FEMA shall constitute proof.

**Section 804: Development Permit and Conditional Use Approval**

A. Permit Required

A permit is required from the Zoning Administrator for all proposed fill, construction or other development, including new or substantially improved structures, the placement of manufactured homes or recreational vehicles, and storage of chemicals, explosives, flammable liquids, or other hazardous or toxic materials, in all areas covered by this Article. Development needing conditional use approval, nonconforming use approval or a variance must have such.

B. Permitted Development

The following activities outside the floodway only require an administrative permit from the Zoning Administrator:

1. non-substantial improvements to existing structures that do not involve fill and do not decrease structure setbacks from any stream;
2. at-grade parking areas that meet the requirements in Article VI;
3. small accessory structures such as fences, sheds, or utilities that meet the requirements in Article V; or
4. utilities that do not involve fill and that meet the requirements in Article V and FEMA Guidance 348 *Protecting Building Utilities From Flood Damage*

C. Conditional Use Approval

Conditional use approval by the Development Review Board, prior to the issuance of a permit by the Zoning Administrator, is required for:

1. Any development that takes place in the underlying zoning districts that is not excluded by Section 804 B. and D including new or substantial improvement, elevation, or flood proofing of existing structures,
2. improvements to existing roads or drainage,
3. grading, excavation, or the creation of a pond,
4. bridges, culverts, public utilities, stabilization projects, or public projects which are functionally dependent on stream access or stream crossing,

In granting conditional use approval, the Board shall use the standards for development set out below in Section 805.

D. Exempted Activities

The following are exempt from regulation under this flood hazard area regulations.

1. the removal of a structure or building in whole or in part;
2. maintenance of existing roads and drainage.
3. silvicultural (forestry) activities conducted in accordance with Vermont Department of Forest and Parks Acceptable Management Practices; and
4. agricultural activities conducted in accordance with Vermont Department of Agriculture Accepted Agricultural Practices (AAP). In Section 4.07 the AAP states:
  - a. Manure, fertilizer, pesticide storage structures, and farm structures shall not be constructed within a floodway area as presented on National Flood Insurance Maps on file with Town Clerks or within a Fluvial Erosion Hazard Zone as designated by municipal ordinance. Such structures may be constructed outside this area yet within the 100-year floodplain when adequately protected from inundation and floodwater damage. Fences through which floodwater may flow are not structures which represent an encroachment in a floodway area.
  - b. All manure, fertilizer, and pesticide storage structures constructed within a floodplain must conform to National Flood Insurance Program standards.
  - c. Prior to construction of farm structures, the farmer must notify the zoning administrator or the town clerk in writing of the proposed construction activity. The notification must contain a sketch of the proposed structure including the setbacks from adjoining property lines and road rights-of-way.
  - d. Local setbacks or no build areas within Fluvial Erosion Hazard Zones established by the municipality shall be maintained unless upon written petition of the farmer the Secretary has approved other reasonable setbacks for the specific farm structure being constructed or maintained.
  - e. In addition to the provisions of 4.07 (a) and (b); new structures that are not additions to existing farm structures associated with farm operations shall be constructed so that a minimum distance of 50 feet is maintained between the top of the bank of the adjoining waters and the farm structure. Such structures do not include those for irrigation, drainage or fencing.
  - f. All waste storage facilities constructed or expanded after July 1, 2006 shall be designed and constructed according to USDA Natural Resource Conservation

Service standards and specifications or an equivalent standard certified by a professional engineer licensed in the State of Vermont.

- g. In addition to the provisions of 4.07 (a) and (b); new structures that are not additions to existing farm structures associated with farm operations shall be constructed so that a minimum distance of 50 feet is maintained between the top of the bank of the adjoining waters and the farm structure. Such structures do not include those for irrigation, drainage or fencing.

E. **Nonconforming Structures and Uses**

An applicant may request a hearing by the Development Review Board under the Act to consider the repair, relocation, replacement, or enlargement of a nonconforming structure, or address nonconforming uses within a regulated flood or other hazard area. The request will be handled through the same process identified for conditional use approval. The Board may allow and condition such actions subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

1. The permit is in compliance with all the Development Standards in this bylaw.
2. Nonconforming structures that are destroyed or substantially damaged may be reconstructed in circumstances when the structure cannot be relocated to a less hazardous location on the parcel, when the lowest floor of the reconstructed structure is rebuilt to one foot or more above the base flood elevation, and the structure is otherwise in compliance with all requirements of the National Flood Insurance Program.
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of a nonconformity. Replacement manufactured homes must be placed so as to meet the Development Standards in this bylaw.

**Section 805: Development Standards**

A. Floodway Areas (within mapped Floodway Areas, the following Section A. provisions are additive to the Section B provisions below).

1. Development, or other encroachments, within the regulatory floodway, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
2. Junkyards, on-site wastewater disposal systems, and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

B. All Special Flood Hazard Areas

1. All Development - All development shall be reasonably safe from flooding and:
  - (a) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
  - (b) constructed with materials resistant to flood damage,
  - (c) constructed by methods and practices that minimize flood damage, and
  - (d) 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.
  
2. Residential Development:
  - (a) New construction and existing buildings to be substantially improved that are located in Zone A, Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
  - (b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
    - (i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.
    - (ii) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist flotation, collapse, and lateral movement.
  - (c) Residential construction located within Zones A, AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures
  
3. Non-residential Development:
  - (a) New construction located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
  - (b) Existing buildings to be substantially improved located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (c) A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design,

specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

- (d) Non-residential construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

4. Subdivisions:

- (a) New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
- (b) Subdivisions (including manufactured home parks) shall be designed to assure:
  - (i) such proposals minimize flood damage within the flood-prone area,
  - (ii) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - (iii) adequate drainage is provided to reduce exposure to flood hazards.

5. Enclosed Areas Below the Lowest Floor:

- (a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
- (b) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- (c) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

6. Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:

- (a) be on the site for fewer than 180 consecutive days,
- (b) be fully licensed and ready for highway use, or
- (c) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2. (b).

7. Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

- (a) The structure must only be used for parking or storage,
- (b) The structure must have the required openings to allow floodwaters in and out,

- (c) The structure must be constructed using flood resistant materials below the Base Flood Elevation,
  - (d) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and
  - (e) All building utility equipment including electrical and heating must be elevated or flood proofed.
8. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
9. Sanitary Sewage Systems: New and replacement 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.
10. On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
11. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

**Section 806: Variances to the Development Standards**

Variances to the above standards may be granted in writing by the Development Review Board only in accordance with the Act and 44 CFR Section 60.6, and after a hearing noticed in accordance with the Act.

Any variance issued will inform the applicant that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

**Section 807: Nonconforming structure(s) in areas of special flood hazard**

The Development Review Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a non conforming structure within a regulated flood hazard area, subject to compliance with Article VII and provided that the following criteria are met:

- A. The Board finds that the repair, relocation, or enlargement of such non conforming structure is required for the continued economically feasible operation of a non residential enterprise; and
- B. The Board finds that the repair, relocation, or enlargement of a non conforming residential or non residential structure will not increase flood levels in the regulatory floodway, threaten the health, safety and welfare of the public or other property owners; and
- C. The permit, so granted, shall state that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, may not be eligible for any flood insurance which may pertain to

regulated flood hazard areas, and will be maintained at the risk of the owner; and

- D. A copy of such permit shall be affixed to the copy of the deed of the concerned property on file in the municipal clerk's office.

**Section 808: Administration**

A. Zoning Administrator

These Flood Hazard Area Regulations shall be Administered and Enforced according to Article XIII of the Poultney Zoning Regulation.

In addition, all proposed development shall be reviewed by the Zoning Administrator or the Development Review Board to assure that that the applicant has received a Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the Town permit application. The approved permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and attached to the permit application before work can begin;

B. Application Requirements

Applications for development in the Flood Hazard Overlay District shall include:

1. the name and contact information for the owner of the property, including any agents authorized to act on their behalf;
2. a thorough description of the proposed development;
3. general location map including the address of the property, tax parcel ID, relative locations of the existing development and the nearest public road;
4. where applicable locate the proposed development, any water bodies, special flood hazard areas, floodways, the shortest horizontal distance from the proposed development to the center line of stream, shortest horizontal distance to top of bank of any stream, any existing or proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current special flood hazard maps;
5. two copies of the application,
6. the appropriate fee and,
7. a Permit Review Sheet from the Agency of Natural Resources indicating which permits, if any, may also be required.

For applicants seeking conditional use approval or a variance, the following also need to be provided:

1. a list of abutter's names and mailing addresses;
2. a statement of purpose and need for the proposed development;
3. a description of the alternatives considered to the proposed development, including alternate locations on site, especially outside of the hazard area;
4. elevations of any proposed development;

5. such pertinent information as identified in the regulations or deemed necessary by the Development Review Board for determining the suitability of the proposed development for the site;
6. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet should identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the Town permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the AO and attached to the permit application before work can begin;
7. copies of the application sufficient for the file, the Development Review Board members, the State National Flood Insurance Program Coordinator, and additional parties such as the VT DEC Stream Alteration Engineer and adjacent communities if affected under Section IX C; and,
8. any additional fees required.

C. Referrals

Upon receipt of a completed application the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Program in accordance with the Act. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

D. Records

1. Within three days following the issuance of a permit, the Zoning Administrator shall:
  - a) deliver a copy of the permit and any accompanying conditional approval to the Listers of the municipality; and
  - b) post a copy of the permit in at least one public place in the municipality until the expiration of 15 days from the date of issuance of the permit.
2. Within 30 days after a municipal land use permit has been issued or within 30 days of the issuance of any notice of violation, the Zoning Administrator shall:

- a) deliver the original or a legible copy of the permit, or notice of permit, and any approvals to the town clerk for recording in the land records as provided in the Act;
  - b) file a copy of the permit and any approvals in the Town office in a location where all municipal land use permits shall be kept; and,
  - c) the Zoning Administrator may charge the applicant for the cost of the recording fees as required by law.
3. The Zoning Administrator shall properly file and maintain a record of:
- a) all permits issued in areas covered by this bylaw;
  - b) the as-built elevation (consistent with the datum of the elevation on the current Special Flood Hazard Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings in areas of special flood hazard;
  - c) the as-built elevation (consistent with the datum of the elevation on the current Special Flood Hazard Maps for the community) to which buildings have been flood proofed in areas of special flood hazard;
  - d) all flood proofing certifications required under this regulation; and,
  - e) All variances, notices of alleged violation, and conditional use approvals, including justification for their issuance.

E. Decisions

Conditional use approvals shall assure that all necessary permits must be also received from those government agencies from which approval is required by Federal, State or Municipal law prior to the issuance of a permit.

The Development Review Board shall consider comments from the NFIP Coordinator at DEC.

**Section 809: Enforcement and Penalties**

The Flood Hazard Area Regulations shall be enforced in accordance with the provisions of the Act. In addition, upon determination that a violation exists, the Zoning Administrator shall mail a copy of the notice of violation to the State NFIP Coordinator.

If the violation is not remedied within 7 days, or after all appeals have been resolved, the Zoning Administrator shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the violator. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the Zoning Administrator making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

### **Section 810: Other Provisions**

- A. Warning of Disclaimer of Liability. This regulation does not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. This regulation shall not create liability on the part of the Town or Village of Poultney or any town official or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made thereunder.
- B. Validity and Severability. If any portion of this regulation is held unconstitutional or invalid by a competent court, the remainder of this regulation shall not be affected.
- C. Precedence of Regulation. The provisions of this regulation shall not in any way impair or remove the necessity of compliance with any other applicable regulations. Where this regulation imposes a greater restriction, the provisions of this regulation shall take precedence.

### **Section 811: Definitions Pertaining to Flood Hazard Zoning**

**A Zone.** That portion of the SFHA subject to a one percent chance of being equaled or exceeded by flooding in any given year. In the A Zone the base floodplain is mapped by approximate methods, i.e. BFEs are not determined. This is often called the unnumbered A Zone or approximate A Zone.

**Zoning Administrator.** The person appointed by the Selectboard to administer and implement the provisions of these regulations.

**AH zone.** An area of 100-year shallow flooding where depths are between 1 and 3 feet (usually shallow ponding), base flood elevations are shown.

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

**Appropriate Municipal Panel (AMP).** A planning commission performing development review, a Development Review Board, a development review board, or a legislative body performing development review.

**Area of Special Flood Hazard.** Synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

**Base Flood.** 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).** The height of the base flood, 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 average depth of the base flood, usually in feet, above the ground surface.

**Basement.** Any area of the building having its floor elevation (below ground level) on all sides.

**BE** (see Base Flood Elevation)

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

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

**Common plan of development.** Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

**Critical Facilities.** Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station that survive a flood and now are the only points for food and gas.

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Existing manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial floodplain management regulations adopted by a community.

**Expansion to an existing manufactured home park or subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

**FIRM.** See Flood Insurance Rate Map

**Flood.** (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as

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

**Flood Insurance Rate Map (FIRM).** 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 (generic).** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**Flood Insurance Study (FIS).** The official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

**Floodplain or flood-prone area.** Any land area susceptible to being inundated by water from any source (see definition of “flood”).

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

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Towns with established base flood elevations (BFEs) on Flood Insurance Rate Maps please note that the extent of FEMA floodways may be shown on a separate series of panels.

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities, that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

**Interested person.** An Interested Person means any one of the following:

- (1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
- (2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.
- (3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
- (4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection above who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- (5) Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this definition, and the agency of commerce and community development of this state.

**Legislative body.** The Selectboard..

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

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

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Minor improvement.** Any repairs, reconstruction, or improvement of a structure (other than customary maintenance), the cost of which is less than fifty (50) percent of the market value of the existing structure.

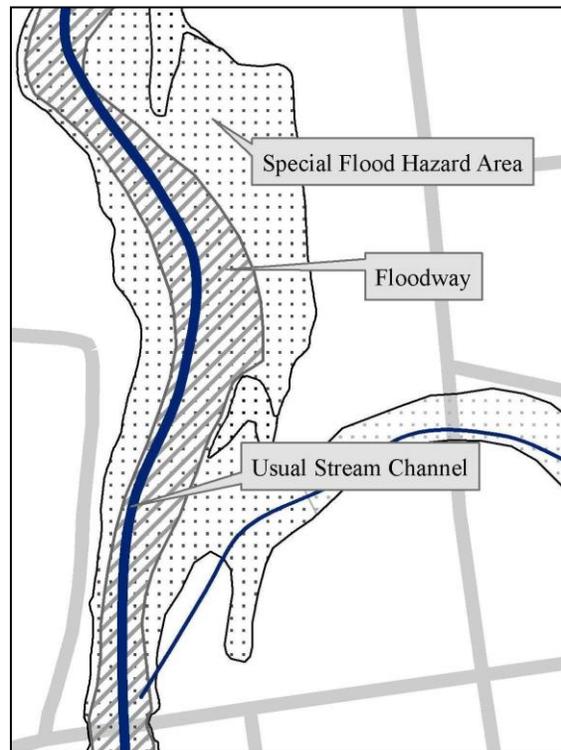
**New construction.** For the purposes of determining insurance rates, structures, including manufactured homes, for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For regulation under this bylaw, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**Non-residential.** Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

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

**Special Flood Hazard Area (SFHA).** Land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” “is synonymous in meaning with the phrase “special flood hazard area”. Maps of this area are available for viewing in the town clerk’s office or acquired online from the FEMA Map Service Center. The Special Flood Hazard Area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). Zone A is the flood insurance rate zone that corresponds to the 100-year floodplains that are determined in the Flood Insurance Study (FIS) by approximate methods. Because detailed hydraulic analyses are not performed for such areas, no BFEs or depths are shown within this zone. After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, or AE. Zones AE and A1-A30 are the flood insurance rate zones that correspond to the 100-year floodplains that are determined in the FIS by detailed methods. In most instances,



BFEs derived from the detailed hydraulic analyses are shown at selected intervals within this zone. Zone AH is the flood insurance rate zone that corresponds to the areas of 100-year shallow flooding with a constant water-surface elevation (usually areas of ponding) where average depths are between 1 and 3 feet. The BFEs derived from the detailed hydraulic analyses are shown at selected intervals within this zone. The extent of floodways may be shown on separate map panels in communities that have established BFEs.

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

**Structure.** For regulatory purposes under this Article, a walled and roofed building, as well as a manufactured home, and any related built systems, including a gas or liquid storage tanks. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

**Substantial damage.** 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.** Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. For the purposes of determining “substantial improvement” value and exceptions in (a) only and no other purpose, the Zoning Administrator is “the local code enforcement official”.

**Violation.** 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 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

**Walkout-on-grade basement.** A basement whose floor is at ground level on at least one side of the house, usually with a door on that side. This is not considered a "basement" as defined by these regulations.

## **ARTICLE IX: PLANNED UNIT DEVELOPMENT**

### **Section 901: Planned Unit Development Statement of Purpose**

- A. A Planned Unit Development provides for a clustering and/or different mixture of principal uses, arrangements of principal buildings and land use densities, than is conventionally provided in the standard subdivision and zoning scheme where each principal building or use is located on an individual lot and setback in a standard fashion from other such buildings and uses.
- B. The purpose of this section is:
  - 1. To enable and encourage flexibility in development or redevelopment of land to promote a mix of residential and nonresidential uses in Poultney's designated downtown;
  - 2. To allow for orderly growth and the reuse of existing structures in a manner that does not unduly impact the capacity of community services and facilities or adversely impact surrounding neighborhoods; and
  - 3. To provide for flexibility in use type, site and lot layout, building design, placement and clustering of buildings, use of open areas, provision 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.
  - 4. To maintain or establish significant open spaces for natural functions (including but not limited to wildlife corridors, wetlands, etc.), agriculture, forestry, recreation, and scenic or public purposes which are reasonably related in both nature and extent to the impact of such project.

### **Section 902: Development Review Process**

- A. All submission requirements by the applicant and public hearing process necessary for Conditional Use Approval (Article IV) and Site Plan Review (Article XIII) shall apply.
- B. Planned Unit Developments involving the subdivision of land shall be reviewed concurrently with Subdivision review (Article X).
- C. All reviews are conducted in accordance with the procedures of subchapter 10 of the Act.

### **Section 903: Standards for Review**

- A. A PUD may only be permitted on a parcel not less than 5 acres, located in the College Campus Zoning District, and only after Conditional Use Review by the DRB.
- B. The PUD shall be consistent with the Town Plan, and the land uses involved shall conform to those allowable for the district in which the project is located. At the discretion of the DRB, a PUD may involve uses that are of the same general character as those allowed in the district in which the use is proposed.
- C. All zoning requirements for the underlying district, except for dimensional requirements (Article V, Section 501) for structures existing at the time of this adoption, shall be met. For new structures, the following may be modified or waived: building height, lot area, lot width/depth minimum, lot coverage and setbacks.
- D. Where the development may affect the character of the adjacent properties, the DRB may require special landscaping, natural buffer setbacks, and areas which must be kept free of buildings.

- E. All designated open space shall be protected from any additional development and shall be preserved according to conditions imposed by the DRB.
- F. An approved PUD shall not be further subdivided to create an additional PUD.
- G. Unless all property within the PUD is owned by one entity or individual, there shall be a homeowner's association, co-operative, or other entity governed by an agreement with conditions, covenants, and regulations. This agreement shall provide additional legal means to assure continuation and maintenance of all open space, common facilities such as sewer, parking, and lighting.

**Section 904: Phasing**

- A. The PUD may be proposed in phases over a reasonable period of time to ensure project conformity with the town plan and orderly development of the PUD, and/or to avoid overburdening municipal facilities and services.
- B. Each phase of the proposed development must contain the required parking spaces, landscaping, and utility areas necessary for creating and sustaining a desirable and stable environment. These amenities must be installed and completed for each phase prior to the issuance of a zoning permit for the commencement of construction of a subsequent phase, unless otherwise waived by the DRB in writing. If waived, the DRB may require the developer to secure a performance bond, letter of credit, or equivalent surety in an amount sufficient to secure the full completion of such improvements.

**Section 905: Amendments to Existing Planned Unit Developments**

- A. No changes, modifications, or revisions shall be made to the PUD unless approved by the DRB with the exception of minor amendments which may be approved by the Zoning Administrator as set forth below. Any changes to an approved PUD plan without review by the DRB or, if appropriate the Zoning Administrator, shall constitute a violation of these Bylaws.
  - 1. Minor amendments to a PUD may be administratively approved by the Zoning Administrator. Minor amendments are changes which do not alter findings of fact or conclusions of law and preserve the essential character of the PUD with regard to uses, floor space, number of buildings, density, height, lighting, and the physical relationship of the PUD to the site.
  - 2. Major amendments, which are subject to DRB review and approval, are changes which alter findings of fact, conclusions of law, or which alter the essential character of the PUD. Major amendments include but are not limited to:
    - a. An increase greater than 5% in floor area, site coverage or height;
    - b. Any reduction in open space;
    - c. Any additional or different uses;
    - d. Any change in building location;
    - e. Any change in traffic access, circulation, or parking.

## **ARTICLE X: SUBDIVISION**

### **Section 1001: General Provisions**

#### **A. Enactment**

Whereas the Town of Poultney has created a Development Review Board and has adopted and has in effect a plan under the Act, there is hereby established subdivision regulations for the Town of Poultney.

#### **B. Purposes**

The purpose of this Article is to provide for orderly growth and coordinated development in the Town of Poultney to assure the comfort, convenience, safety, health, and welfare of the people, to carry out the purposes of the Town Plan, to assure conformance with the zoning regulations, capital budget and program and official map, to make proper provision for drainage, water, sewerage, streets, recreational facilities, open space and other improvements, to recognize a desirable relation to land form, its topography and geology, to natural drainage and surface water runoff, and to the ground water table, to preserve natural assets, and to further the purposes of § 4401 of the Act.

#### **C. Authority**

The Development Review Board (the Board) is hereby authorized and empowered to do all acts and things set forth and provided in the Act including but not limited to the approval, modification, or disapproval of all plats previously filed in the municipal clerk's office if such plat or plats are entirely or partially un-developed under the subdivision regulations.

#### **D. Waivers and Variances**

1. Where the Development Review Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations or where there are special circumstances of a particular plat, it may be done and the public interest secured.
2. Where the Development Review Board finds that, due to the special circumstances, of a particular plat, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy of lack of connection facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
3. In granting variances and modifications, the Development Review Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or varied.
4. No such waiver or variance may be granted if it would have the effect of nullifying the intent and purpose of the Town Plan, the Unified Bylaws, the Official Map, or the Capital Budget and Program.

E. **Amendments**

These regulations may be amended according to the requirements and procedures established in Sections 4403 and 4404 of the Act.

F. **Enforcement, Violations and Penalties**

These regulations shall be enforced in accordance with Sections 4444 and 4445 of the Act.

G. **Severability**

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

**Section 1002: Minor Lot-Line Adjustments and Two-Lot Subdivisions**

A. **Minor Lot-Line Adjustments**

The ZA may approve minor lot-line adjustments that meet all of the criteria below. Any lot-line adjustment that does not meet the below criteria will not be considered “minor,” and shall be treated as a Subdivision and reviewed by the Development Review Board in accordance with these bylaws.

1. Neither lot (nor any structure or use on it) is, or shall become if the proposed adjustment is approved, nonconforming based on the standards of the zoning district(s) in which it is located. Notwithstanding, the ZA may act on a minor lot-line adjustment involving an existing nonconformity if the proposed adjustment will result in the elimination or reduction of the nonconformity;
2. The minor lot-line adjustment shall not make either lot more developable based on the standards of the zoning district(s) in which it is located (by increasing the acreage or road frontage to allow for further subdivision or the potential for a greater number of lots, for example); and,
3. The minor lot-line adjustment shall not result in a change of more than an acre of land in any involved lot.

B. **Two-Lot Subdivisions**

The ZA may approve a two-lot subdivision that meets all of the criteria below. Any two-lot subdivision that does not meet the below criteria shall be treated as a Subdivision and reviewed by the Development Review Board in accordance with these bylaws.

1. The lot being subdivided from the parent parcel shall meet all dimensional requirements of the district in which it is located.
2. The lot being subdivided from the parent parcel shall meet road access requirements set forth by the Poultney Selectboard and shall not require the development of a private road.
3. The subdivision shall not be under Act 250 jurisdiction.
4. There have been no lots subdivided from the parent parcel, or any contiguous parcels in common ownership to the parent parcel, during the previous 5-year period.

C. **Submission Requirements**

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

1. Existing and proposed lot lines;

2. Zoning district boundaries;
3. Existing and proposed roads/drives and associated rights-of-way; and
4. Existing building footprints and development envelopes.

**D. Survey Required**

A survey, stamped by a Vermont licensed surveyor registered in Vermont, in accordance with Title 27 V.S.A. §1403, shall be completed. If any lot involved is 5 acres or greater in area, prior to the proposed subdivision or minor lot line adjustment, the applicant shall not be required to survey it in its entirety and may survey only those portions necessary to establish any new boundaries, unless the ZA requires a full boundary survey to determine whether the creation of a new lot complies with these bylaws.

**E. State Permits Required**

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

**F. Filing Required**

Within 180 days of approval by the ZA, applicants shall file a mylar final plat for recording in the town land records. Failure to file within 180 days voids approval of the plat.

**Section 1003: Subdivision Application and Approval Procedure**

**A. Application of Regulations**

Whenever any subdivision of land is proposed to be made, before any contract for sale of such subdivision or any part thereof is made, before any grading, clearing, construction or other improvement is undertaken, or before any permit for erection of a structure in such proposed subdivision is granted, the subdivider shall apply in writing to the Zoning Administrator for a secure approval of the proposed subdivision.

**B. Submission of Sketch Plan**

1. Any owner of land shall, prior to submitting an application for subdivision of land, submit to the Clerk of the Development Review Board five (5) copies of the Sketch Plan of the proposed subdivision which shall show the proposed layout of streets, lots and other features on a preliminary print of a survey of the property drawn to scale as well as a vicinity map showing the general location of the property in relationship to the surrounding area.
2. The subdivider, or a duly authorized representative, shall attend a meeting of the Development Review Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.
3. At this meeting the Development Review Board will determine whether the proposed subdivision will constitute one (1) of two (2) categories as defined in Section 1006:

Minor Subdivision

Major Subdivision

4. The Board shall study the Sketch Plan to determine whether or not it conforms to, or would be in conflict with the Town Plan; these Unified Bylaws; the Capital Budget and Program; the Official Map; developments proposed by any public agency; existing private and public development, facilities and services; and for any special problem that may be encountered.
5. The Board shall determine whether the Sketch Plan meets the purposes of these Regulations and may make specific written recommendations for changes.
6. If the subdivider submits a proposal for a Planned Unit Development, requirements of Article IX shall be met.
7. If the subdivider submits a proposal for a Compact Subdivision, requirements of Article XI shall be met..

**C. Procedures for Minor Subdivisions**

The Board may require where necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or some of the requirements specified for major subdivisions.

1. Within six months of classification by the Development Review Board of the Sketch Plan as a Minor Subdivision, the subdivider shall submit an application for approval of a subdivision plat according to the procedures and requirements of Section 1003 (F).  
The Plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.
2. The fee for plat approval for Minor Subdivisions shall be set by the legislative body.

**D. Procedures for Major Subdivisions**

1. Within six months after classification of the Sketch Plan as a Major Subdivision by the Board, the subdivider shall submit an application for preliminary approval of a Preliminary Plat according to the procedures and requirements of 1003 (E). Failure to do so shall require re-submission of the Sketch Plan to the Board for reclassification. The plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.
2. The fee for plat approval for Major Subdivisions shall be set by the legislative body.

**E. Review and Approval of Preliminary Plat**

1. Application: The subdivider shall file an application for consideration of a Preliminary Plat on the proposed subdivision in the form described in Section 1004 (A).
2. Number of Copies: Six (6) copies of the Preliminary Plat and six (6) copies of the vicinity map shall be presented to the Clerk of the Board.
3. Official Submission Date: The time of submission of the Preliminary Plat shall be

- date of the receipt of the application.
4. Subdivider to Attend Development Review Board Meeting: The subdivider, a duly authorized representative, shall attend a meeting of the Development Review Board to discuss the Preliminary Plat.
  5. Review of Preliminary Plat: The Board shall study the practicability of the Preliminary Plat. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply or sewage disposal (including any State Potable Water/Wastewater Permits received or applied for), drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the requirements of the Town Plan, the Official Map, these Unified Bylaws, and the Capital Budget and Program.
  6. Preliminary Approval of Preliminary Plat: The Development Review Board shall take action to approve, with or without modifications, or disapprove a Preliminary Plat. The ground of any modification required or the ground for disapproval shall be clearly stated in the findings of fact and conclusions of the Board. Prior to preliminary approval the Board may hold a preliminary hearing after public notice=.

When granting preliminary approval to a Preliminary Plat, the Board shall state the conditions of such approval, if any, with respect to (1) the specific changes which it will require in the Preliminary Plat, (2) the character and extent of the required improvements for which waivers may have been requested, (3) the amount of improvement or the amount of all bonds therefore which it will require as a prerequisite to the approval of the Subdivision Plat. The action of the Board and any conditions attached thereto shall be noted on three (3) copies of the Preliminary Plat. One copy shall be returned to the subdivider, one retained by the Board and one forwarded to the legislative body.

Preliminary approval of the Preliminary Plat shall not constitute approval of the Subdivision Plat. Prior to approval of the Final Subdivision Plat, the Development Review Board may require additional changes as a result of further study.

**F. Review and Approval of Final Plat**

1. Application: The subdivider shall file an application for consideration of a Final Plat of the proposed subdivision. If the final application is not submitted within six (6) months after the preliminary approval of the Preliminary Plat for Major Subdivision, the Board may refuse without prejudice to act on the Final Plat and require re-submission of the Preliminary Plat. If the final application for a minor subdivision is not submitted within six (6) months of classification by the Development Review Board of the Sketch Plan as a Minor Subdivision under Section 1003 (B)(3), the Board may refuse without Prejudice to act on the Final Plat and require re-submission of the Sketch Plan.
2. Number of Copies: Three (3) copies of the Plat, a copy of the application, the original and one true copy of all offers of cession, covenants and agreements, and two prints of all construction drawings shall be submitted to the Clerk of the Board.
3. Official Submission Date: The time of submission of the Final Plat shall be following receipt of the application.
4. Application to State and Municipal Agencies: The subdivider shall apply for all

municipal and state permits required of the proposed subdivision and shall submit copies of these applications to the Board. Such permits may include, but are not limited to, a Zoning Permit, Highway Access Permit, Act 250 Permit, Public Building Permit, and/or Potable Water and Wastewater Permit.

5. Public Hearing: Duly noticed in accordance with § 4464 of the Act, a public hearing shall be held by the Development Review Board. 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 fifteen (15) days prior to the hearing.
6. Site Visit: During the duly noticed public hearing, the Board may recess for a site visit. Any observations made during the site visit must be read and approved once the hearing reconvenes. A site visit may be scheduled prior to a public hearing, however it must be duly warned in accordance with § 4464 of the Act.
7. Action on Proposed Final Plat: The Development Review Board shall, within forty-five (45) days after the adjournment of the public hearing, approve, modify and approve or disapprove the subdivision plat. Failure to act within such forty-five (45) days shall be deemed approved. However, if approved, the Final Plat shall not be signed by the authorized officers of the Board for recording until the subdivider has complied with the provisions set forth in subsection (8) below. .
8. Improvements and Performance Bond: Before the Board grants final approval of the Subdivision Plat, at the discretion of the Development Review Board in securing public interest and welfare, the subdivider may be required to post security following one of the procedures set forth in either subparagraph (a) or subparagraph (b) below:
  - a. In an amount set by the Development Review Board the subdivider shall either file with the Municipal Clerk a performance bond with security to cover the full cost of the required improvements or the subdivider shall file with the Municipal Clerk a performance bond to cover the full cost of required improvements. Any such bond shall be satisfactory to the legislative body and municipal attorney as to form, sufficiency, manner of execution and surety. The Board shall fix the term of the bond up to three years. The term of such bond may, with the consent of the owner, be extended for an additional period not to exceed three years. The certified check or bond shall include an amount required for recreation land or improvements as specified in Section 1005(G), or
  - b. The subdivider shall complete all required improvements to the satisfaction of a duly designated Consulting Engineer registered in the State of Vermont who shall file with the Development Review Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed the subdivider shall file with the Municipal Clerk a bond or certified check covering the costs of satisfactorily installing any improvement not approved by the Municipal Engineer or Consulting Engineer. Any such bond shall be satisfactory to the legislative body and Municipal Attorney as to form, sufficiency, manner of execution, and surety. An inspection fee to be paid by the subdivider to cover the costs of inspection shall be established by the legislative body as part of the application fee.

**G. Filing of Approved Subdivision Plat**

1. Final Approval and Filing: Upon completion of the requirements above, and notation to that effect on the Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by Zoning Administrator and the Mylar filed in the office of the Town Clerk at the applicant's expense. Any Subdivision Plat not so filed or recorded within 180 days of the date on which Plat is approved or considered approved by reasons of the failure of the Board to act, shall become null and void.
2. Plat Void if Revised After Approval: No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Board and endorsed in writing on the Plat, unless the said Plat is first re-submitted to the Board and such Board approves any modifications.

**H. Public Acceptance of Streets, Recreation Areas**

Board approval of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, utilities, park, recreational area, or other open space shown on such Subdivision Plat. The Board may require the filing of a written agreement between the applicant and the legislative body covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such improvements.

**Section 1004: Submission Requirements**

**A. Preliminary Plat**

1. The Preliminary Subdivision Plat shall consist of six (6) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of not more than one hundred (100) feet or more, or sixty (60) feet to the inch where lots have less than one hundred (100) feet frontage, showing or accompanied by the following information:
  - (a) Proposed subdivision name or identifying title and the name of the Municipality;
  - (b) Name and address of record owner, subdivider and designer of Preliminary Plat;
  - (c) Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, water courses and other essential existing physical features;
  - (4) The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage;
  - (5) The provisions of the Unified Bylaws applicable to the area to be subdivided and any zoning district boundaries affecting the tract;
  - (6) The location and size of any existing sewer and water mains, culverts and drains on the property to be subdivided;

- (7) Location, names and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks, and other public open spaces as well as similar facts regarding adjacent property;
  - (8) The width and location of any streets or other public ways or places shown upon the Official Map, if any, and the Town Plan, if applicable, within the area to be subdivided, and the width, location, grades, and street profiles of all streets or other public ways proposed by the subdivider;
  - (9) Contour lines at intervals of ten (10) feet of existing grades and of proposed finished grades where change of existing ground elevation will be ten (10) feet or more, if the elevations of the entire area of the proposed subdivision differ by more than 5 feet.
  - (10) Typical cross sections of the proposed grading and roadways and of sidewalks;
  - (11) Date, true north point and scale;
  - (12) Deed reference and map of survey of tract boundary made and certified by a licensed land surveyor tied into established reference points;
  - (13) Connection with existing water supply or alternative means of providing water supply to the proposed subdivision;
  - (14) Connection with existing sanitary sewage system or alternative means of treatment and disposal proposed;
  - (15) If private sewage disposal system is proposed, a reference to the State Potable Water and Wastewater Permit;
  - (16) Provisions for collecting and discharging storm drainage, in the form of drainage plan;
  - (17) Preliminary designs of any bridges or culverts which may be required;
  - (18) The proposed lot lines with approximate dimensions and suggested locations of buildings;
  - (19) The location of temporary markers adequate to enable the Board to locate readily and appraise the basic layout in the field. Unless an existing street intersection is shown, the distance along a street from one corner of the property to the nearest existing street intersection shall be shown;
  - (20) All parcels of land proposed to be dedicated to public use and the conditions of such dedication;
  - (21) The location of all trees on the site and all other natural features or site elements to be preserved.
2. The Preliminary Plat shall be accompanied by a vicinity map drawn at the scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision or any smaller area between the tract and all surrounding existing streets, provided any part of such a street used as part of the perimeter for the vicinity map is at least five hundred (500) feet from any

boundary of the proposed subdivision. Within such area the vicinity map shall show:

- (1) All existing subdivisions and approximate tract lines of parcels together with the names of the record owners of all adjacent parcels of land, namely, those directly abutting or directly across any street adjoining the proposed subdivision;
- (2) Locations, widths and names of existing, filed or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in Paragraph (1) above;
- (3) The boundaries and designations of zoning districts, special improvement districts, school districts and parks and other public spaces;
- (4) An outline of the platted area together with its street system and an identification 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.

**B. Final Plat**

1. The Final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements: It shall be clearly and legibly drawn, and the size of the sheets shall be no larger than 18 inches x 24 inches. Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies. The Subdivision Plat shall show:
  - (1) Proposed subdivision name or identifying title, the name of the Municipality, the name and address of the record owner and subdivider, the name, license number and seal of the licensed land surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks and scale, date and true north point;
  - (2) Street names and lines, pedestrian ways, lots, reservations, easements and area to be dedicated to public use;
  - (3) Sufficient data acceptable to the Board to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where practicable, these should be tied to reference points previously established by a public authority;
  - (4) The length of all straight lines, the deflection angles, radius, length of curves and central angles of all curves, tangent distances and tangent bearings for each street;
  - (5) By proper designation on such Plat, all public open space for which offers of cession are made by the subdivider and those spaces title to which is reserved by him;
  - (6) Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order;
  - (7) The location of all of the improvements referred to in Section 320.2, and in

addition thereto the location of all telephone poles, sewage disposal systems, and rough grading and other devices and methods of draining the area within the subdivision;

- (8) Permanent reference monuments and lot corner markers shall be professional surveyor's monuments
- 2) Before a lot can be conveyed, in accordance with municipal specifications, all streets or other public places shown on such Plats shall be suitably graded or paved, and all utilities, street lighting standards, shade trees, water mains, sanitary sewers, storm drains, and recreation areas, where required by the Board, shall be installed in accordance with the standards, specifications and procedures set forth in these regulations and other applicable municipal regulations and ordinances, or, alternatively, a performance bond shall be required to insure completion of such improvements.

### **Section 1005: General Requirements and Design Standards**

#### **A. Planning Standards**

1. Character of the Land: All land to be subdivided shall be, in the judgment of the Board of such a character that it can be used for building purposes without danger to public health or safety, or to the environment. 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 subdivided.
2. Energy Conservation: In order to conserve energy, all subdivisions shall use the least areas of roadway and the least length of sewer, water and utility lines within environmentally and economically sound limits. Buildings should be sited so as to take advantage of southeast, south and southwest orientations where possible. Landscaping should be effectively used for providing wind barriers and reducing heat loss and heat gain. Cluster development (planned residential and planned unit development) should be encouraged wherever feasible and desirable.
3. Reserved Strips: No privately owned reserved strip, except on open space areas shall be permitted which controls access to any part of the subdivision or to any other parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated.
4. Lot Layout: The layout of lots shall conform to the requirements of these Unified Bylaws where in force, and shall be appropriate for the intended construction. Corner lots shall have extra width to permit a setback on each street. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines. Consideration in lot layout shall be given to topographic and soils conditions. Lot layout for Planned Unit Developments shall be subject to the provisions set forth in Article IX.
5. Preservation of Existing Features: Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources and historic resources.

**B. Private Streets**

1. Topography: Private streets shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets.
2. Horizontal Alignment at Intersections: Intersections of roads shall be 90 degrees. Two streets intersecting at the same street (T-intersections) shall be offset by at least 125 feet (centerline offset) when practicable.
3. Vertical Alignment at Intersections: The gradient within 100 feet of intersections shall not exceed 3%.
4. Access: Paved access shall be available for fire, ambulance and police vehicles to within 100 feet of the principal entrances to dwellings, commercial or industrial establishments and institutions.
5. Cut and Embankment Slopes: All slopes shall be well-rounded to form a smooth transition from the shoulder edge to the existing grades
6. Dead-end Roads, Cul-de-sacs, and Turn-Arounds: The maximum length of a cul-de-sac or dead-end road shall be 1,200 feet. An exception to the requirements may be made for temporary dead-end roads. Dead-end roads or cul-de-sacs shall terminate in a turn-around with a radius of thirty- five (35) feet and a minimum area of twenty (20) feet in width. Provisions shall be made for temporary turn-arounds for temporary dead- end roads.
7. All new roads shall comply with the Town Highway Specifications (or standards)
8. Road Names: Private roads shall be identified by name on the preliminary plat. Proposed roads which are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the names for proposed roads duplicate existing names, irrespective of the suffix, be it street, avenue, boulevard, driveway, place or court.
9. Access Road:
  - A. If the access road to the subdivision is a Class 4 road, the Board may require the subdivider to improve the access road to municipal highway construction standards. If in the Municipal 5-Year Highway Plan, the Class 4 road is not intended to be reclassified as Class 3, the subdivider must make arrangements for maintenance of the access road satisfactory to the Board until such time as the legislative body may re-classify the road.
  - B. The Board may require the subdivider to improve any access road where it intersects with new streets or driveways in the subdivision to facilitate traffic circulation and pedestrian and vehicular safety.
10. Curbs and Sidewalks: Curbs and sidewalks may be required in residential zoning districts where deemed necessary by the Board.

**C. Pedestrian Access**

Where necessary, in the judgment of the Board, rights-of-way for pedestrian travel and access may be required to facilitate pedestrian circulation within the subdivision and to provide access to public property.

**D. Common Ownership**

All areas of a Subdivision in common ownership must be constructed prior to the conveyance of any lot.

**E. Utilities**

1. Easements: The Board may require that underground utilities be placed either in the street right-of-way between the travelled portion of the roadway and street line or placed horizontally underneath the roadway. Where inclusion of utilities in the street right-of-way is impractical, perpetual, unobstructed easements twenty (20) feet in width shall be provided with satisfactory access to the street.
2. Extension of Municipal Utilities: All subdivisions shall make adequate provisions for water supply, storm water and sanitary sewage disposal, and required utilities and improvements. The Board may require the extension of public waters and sewers to and within a proposed subdivision, without cost to the municipality where existing lines are, in the judgment of the Board, within a reasonable distance of the proposed subdivision.
3. Connections to Municipal Utilities: The subdivider may be required to install laterals from all utilities to the street property line of each building lot. Any residential buildings constructed in the subdivision shall have house connections installed, and shall have such connections extended inside of the building. All such utility system installations shall be at the expense of the subdivider.
4. Depth of Utility Mains: Water and sewer mains must be laid below the depth of frost penetration of the area. Sewer lines shall be set lower than water mains.
5. Water Supply Improvements:
  - a. For subdivisions which will connect to the Village of Poultney water supply, applications for extensions must have prior approval by the Village.
  - b. For subdivisions which will have individual water supplies or community water supply systems, a Potable Water/Wastewater Permit must be received from the State.
6. Sewage Disposal Improvements:
  - a. For subdivisions which will connect to the Village of Poultney sewage system, applications for extensions must have prior approval by the Village.
  - b. For subdivisions which will have individual sewage systems or community sewage disposal systems, a Potable Water/Wastewater Permit must be received from the State.
7. Outdoor Lighting: To promote energy conservation, the following lighting levels may be required for the following classifications, as discussed in the International Dark-Sky Association (IDA) Outdoor Lighting Code Handbook:
  - Class 1 - Parking lots, shopping centers, service stations, etc. in downtown areas.
  - Class 2 - Parking lots, shopping centers, service stations, etc. in residential areas, industrial parking lots and service areas.
  - Class 3 - Roadways in residential areas. Assume coverage if 60 feet wide.
  - Class 4 - Walkways for apartments, condominiums, schools, and offices. Assume coverage is 40 feet wide.

8. Electric, Telephone, Cable T.V.: The subdivider shall coordinate the subdivision's design with the utility companies and may be required to submit a plan prepared with their cooperation showing all line extensions necessary to serve the subdivision. Such plan shall be integrated with a systematic program for distribution of service to the entire area around the subdivision now or in the future. Common rights-of-way shall be utilized whenever possible and, then technology and terrain make it economically feasible, distribution systems should be built underground.
9. Fire Protection Facilities: Adequate water storage facilities for fire protection within the subdivision may be required.

**F. Drainage Improvements**

An adequate surface storm water drainage system for the entire subdivision area may be required. The subdivider may be required by the Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivisions.

A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. Where it is anticipated that additional run-off incidental to the development of the subdivision will overload an existing downstream drainage facility so that there will be drainage to private property or an increase in the expenditure of public funds, the Board shall not approve the subdivision until provision has been made for the improvement of said condition. Where a subdivision is traversed by a water course or drainage way, there shall be provided a storm water drainage easement of such width as to encompass the 25-year flood area of such water course, which easement shall be indicated on the Final Plat.

**G. Open Space and Recreation Areas**

1. Where a proposed park, playground or other recreation area is shown on the Town Plan or Official Map to be located in whole or in part in a proposed subdivision, the Board shall require that such area of acres be shown on said Plat. However, the area indicated on the Plat shall not exceed fifteen (15) per cent of the total area of the Plat.
2. If the Board determines that there is no proposed park, playground, or other recreation area in the Town Plan located in a proposed subdivision, or if the Board determines that such a proposed recreation area of adequate size can not be suitably located in the proposed subdivision, the Board may require as a condition to the approval of the Plat, a payment to the municipality of an amount to be determined by the legislative body. The payment shall be used by the municipality to serve the area in which the subdivision is located. Fees paid pursuant to this section shall be deposited in a special fund to be used for acquisition and development of park and recreational facilities.

**H. Site Preservation and Improvements**

1. 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, limit storm water run-off and conserve the natural cover and soil. After application for approval has been made to the Board, no topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these regulations.

2. **Shade Trees:** The Board may require that suitable native evergreen or hardwood shade trees (such as Sugar Maple, Norway Maple, Red Maple, Ash or Oak), be planted at such locations where the Board determines reasonable to protect the interest of neighboring property owners and existing uses. All trees shall be a caliper of at least 2 inches diameter. All trees planted along the street are to be planted within 5 to 8 feet from the street line.
3. **Erosion and Sediment Control:** The smallest practical area of land should be exposed at any one time during development. 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 Board to protect areas exposed during the development. Sediment basins shall be installed and maintained during development to remove sediment from run-off water and from land undergoing development. Such measures shall be undertaken in accordance with The Low Risk Site Handbook for Erosion Prevention and Sediment Control.
4. **Excavation and Grading:** The entire area of work shall be brought to the required lines and grades by excavation or filling. A minimum of four (4) inches of top soil shall be provided to cover all finished slopes. Where required, all streets shall be graded from property line to property line to approved grade and cross section. The Board 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. Materials for embankment shall be placed in successive horizontal layers not exceeding six (6) inches in depth. They shall be thoroughly compacted. The Board may require embankments to be planted with stabilizing shrub or ground cover and seeded with a deep root perennial grass to prevent erosion.

#### **I. Subdivision Organizations and Restrictions**

When a development involves common ownership of roads, community facilities, open spaces, or other commonly held property, deed covenants, and, if applicable, a management organization to operate and maintain these facilities may be required by the Board. A prospectus shall be submitted by the subdivider describing these deed covenants and organization.

#### **Section 1006: Definitions Pertaining to Subdivisions**

Certain means of references and words used herein shall be defined as listed below. Unless the content clearly indicates to the contrary, words in the singular include the plural and those in the plural include the singular. The word “person” includes a corporation, unincorporated association and a partnership, as well as an individual. The word “building” includes structures and shall be construed as if followed by the phrase “or part thereof”. The word “may” is permissive; the words “shall” and “will” are mandatory.

**Act.** Title 24, Chapter 117, The Vermont Municipal and Regional Planning and Development Act.

**Authorized Agent or Representative.** A person or group of persons, who have been duly authorized in writing filed with the Board by the subdivider to act in his or her behalf.

**Board.** See Development Review Board

**Commission.** The Planning Commission of the municipality created under the Act.

**Community Water Supply System.** Any water system owned by the same person that supplies water for domestic, commercial, industrial or institutional uses to two (2) or more customers.

**Community Sewage Disposal System.** Any sewage disposal system, other than a municipal sewage disposal system, owned by the same person that disposes of sewage for domestic, commercial, industrial or institutional uses to two (2) or more customers.

**Construction Drawings.** The drawing showing the location, profile grades, size and types of drains, sewers, water mains, underground fire alarm ducts, underground power and telephone ducts, pavements, cross sections of streets, miscellaneous structures, etc.

**Development Review Board.** The Development Review Board (Board) of the municipality created under the Act.

**Easements.** The authorization of a property owner for the use by another, and **Final Subdivision Plat.** The final drawings on which the subdivider's plan of subdivision is presented to the Development Review Board for approval and which, if approved, may be filed for record with the Municipal Clerk.

**Legislative Body.** The selectmen in the case of a town, the trustees in the case of an incorporated village, the prudential committee of a fire district, the mayor and aldermen in the case of a city, and the supervisor in the case of an unorganized town or gore.

**Lot Line Adjustment, Minor.** Division of land such as for minor realignment of property boundary lines of pre-existing lots, for municipal purposes which conform to the Town Plan (such as road widening, easements, sidewalks, parks, etc.), or alteration of existing lots as specifically permitted under these Unified Bylaws (see Article IX, Section 902: Minor Lot-Line Adjustments and Two-Lot Subdivisions), shall not be deemed a subdivision, but is known as a minor lot line adjustment

**Municipality.** Town or Incorporated Village of Poultney.

**Official Map.** The map authorized by and adopted and modified according to the Act.

**Open Space.** Land unoccupied by structures, buildings, streets, rights-of-way and automobile parking lots.

**Plat.** A map or representation on paper of a piece of land subdivided into lots and streets, drawn to scale.

**Preliminary Plat.** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Development Review Board for its consideration.

**Regional Planning Commission.** Planning Commission for a region created under the Act.

**Re-Subdivision.** A change of recorded subdivision plat if such change affects any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any such change if it affects any map or plan legally recorded.

**Sketch Plan.** A sketch of the proposed subdivision showing information specified in Article II, Section 220 of these regulations to enable the subdivider to save time and expense in reaching

general agreement with the Development Review Board as to the form of the subdivision and objectives and requirements of these regulations.

**Private Street or Road.** An interior circulation road designed and constructed to carry vehicular traffic from a public street within or adjoining a site to parking and service areas or residential lots. It is not maintained nor intended to be maintained by the public.

**Public Street or Road.** Any Town, Village or State highway, road, avenue, street, land or other way between right-of-way lines, commonly used by the general public for vehicular traffic, as designated on Town, Village or State highway maps.

**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.

**Subdivision.** The division of a parcel of land with or without streets into two (2) or more lots, plots, or other legal division of land for transfer of ownership, building development, or sale. Subdivision includes re-subdivision.

**Subdivision, Minor.** A subdivision containing not more than four (4) lots.

**Subdivision, Major.** A subdivision containing more than four (4) lots.

**Town Highway, Class 1.** Town highways designated by the Highway Board which are part of a state highway route and which carry a state highway route number.

**Town Highway, Class 2.** Town highways designated by the legislative body of the municipality with the approval of the Highway Board for securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amounts of traffic.

**Town Highway, Class 3.** All other traveled town highways, other than Class 1 or Class 2, designated by the legislative body of the Municipality, after conference with a representative of the Highway Board.

**Town Highway, Class 4.** All other two highways, including trails and pent roads, other than Class 1, 2, or 3 highways designated by the legislative body of the Municipality.

**Town Plan.** A plan adopted pursuant to the Act.

## **ARTICLE XI: COMPACT SUBDIVISION**

### **Section 1101: Purpose**

*(See Figure 1)*

To permit development of large areas on a comprehensive basis in a manner that will best accommodate residential uses, agricultural and forest land, preserve the community's rural character, protect natural resources, flood hazard lands and provide for the best use of the land and open space.

This Article promotes creative development and provides flexibility not otherwise possible. The examples provided following the text are illustrative only and for the guidance of the land owner and the Development Review Board.

### **Section 1102: Permitted Uses**

One-family, two family or multi-family residential uses, accessory uses, or any combination thereof.

### **Section 1103: Applicability**

Every owner/developer of a parcel of land, to be subdivided into two (2) or more parcels, may, at their discretion, submit a development plan to the Development Review Board under the provisions of this Article at the same time of the submission of the application for a subdivision. Such development plan will be considered by the Development Review Board simultaneously with the subdivision application. A development plan prepared under this Article shall meet the requirements of the Article IX: Subdivision, except as modified by the provisions of this Article.

### **Section 1104: Density**

Any combination of dwelling units may be erected; the maximum permitted density shall be one (1) dwelling unit for each development unit. A "Development Unit" is determined by dividing the total acreage of the parcel to be subdivided by the minimum lot size for the District in which that parcel is located. For instance, in the ARR-5 District, an 88 acre parcel to be subdivided would have 17 Development Units (88 divided by 5). All fractional portions shall be disregarded.

### **Section 1105: Lot Size**

The lot size may vary but shall not be less than one (1) acre. Lots that exceed the minimum lot size for the District shall include a deed restriction against further subdivision.

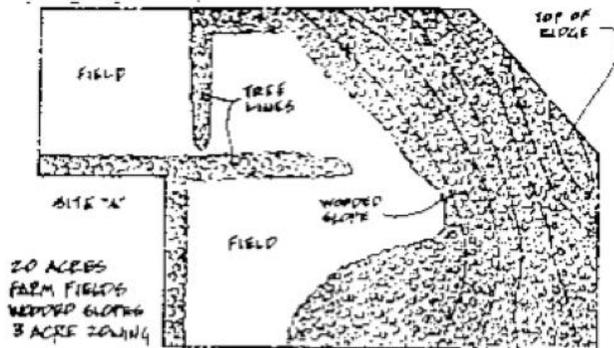
### **Section 1106: Homesite Size and Limit of Disturbance**

*(See Figure 2)*

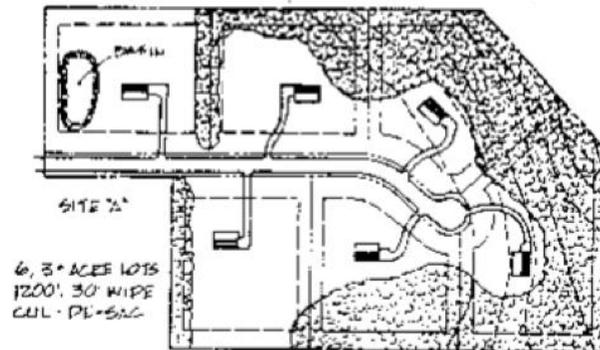
The maximum homesite size is forty percent (40%) of the lot area or twenty thousand (20,000) square feet, whichever is less. This area shall be considered the limit of disturbance and all construction activity, including driveways and buildings, shall take place within that area.

# FIGURE 1 COMPARISON CONVENTIONAL & COMPACT SUBDIVISIONS

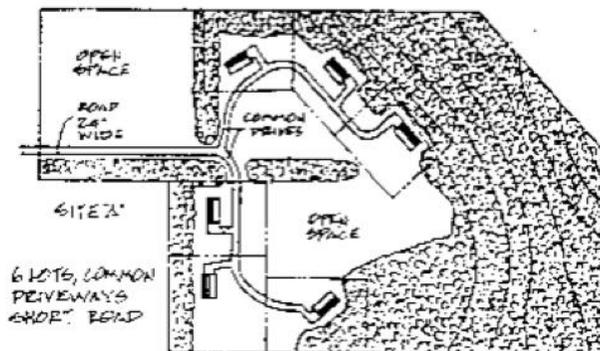
## EXISTING



## CONVENTIONAL



## COMPACT



### **Section 1107: Spacing of Homesites**

*(See Figure 3)*

- A. Minimum distance between homesites on adjacent lots - fifty feet (50');
- B. Minimum distance to lot line - five feet (5');
- C. Minimum distance to public roads - seventy-five feet (75');
- D. Minimum distance to lakes and ponds - two hundred feet (200').
- E. Minimum distance for septic disposal fields shall conform to potable water supply and wastewater system permit requirements, as set forth by the Agency of Natural Resources

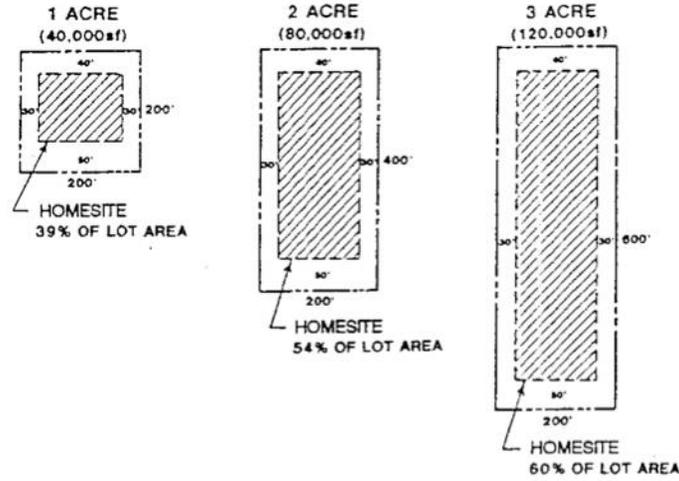
### **Section 1108: Locating Homesites**

*(See Figure 4)*

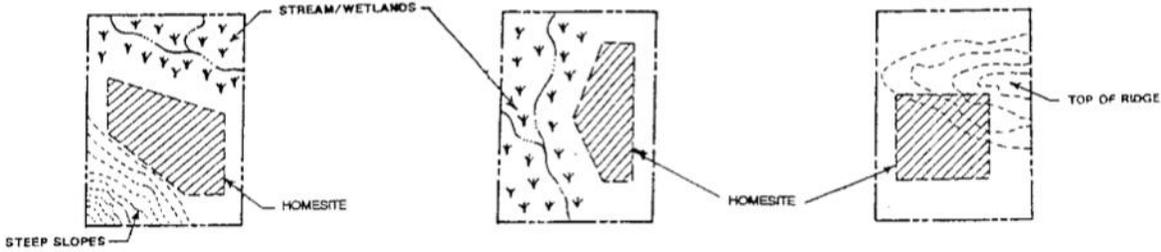
- A. Homesites shall not include Class I and II wetlands, flood plains, aquifer and well head protection areas for public or community systems, deeryards, lands containing rare and/or endangered species or unique habitat, and areas with slopes in excess of twenty-five (25%) percent.
- B. Homesites should, to the maximum extent possible, avoid agricultural lands rated as prime by the State of Vermont and open fields.
- C. Homesites should, to the maximum extent possible, be located on the edges of fields and in wooded areas to minimize the visual impact of development.
- D. The maximum number of homesites in any one grouping shall be six (6).
- E. The maximum number of development units on any one homesite shall be four (4).

## FIGURE 2 HOMESITES/LIMIT OF DISTURBANCE

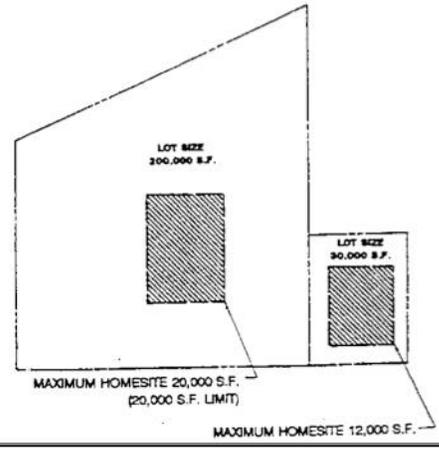
### HOMESITES - CONVENTIONAL LARGE-LOT ZONING



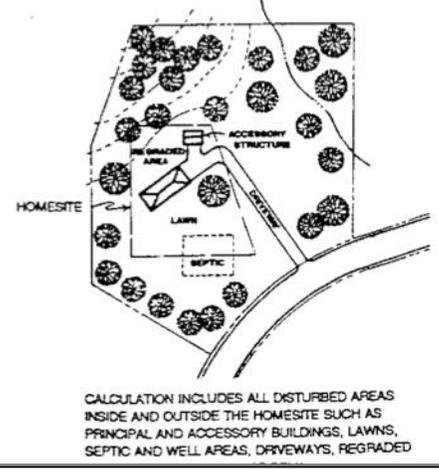
### HOMESITES UNDER COMPACT SUBDIVISION TO LIMIT SITE DISTURBANCE



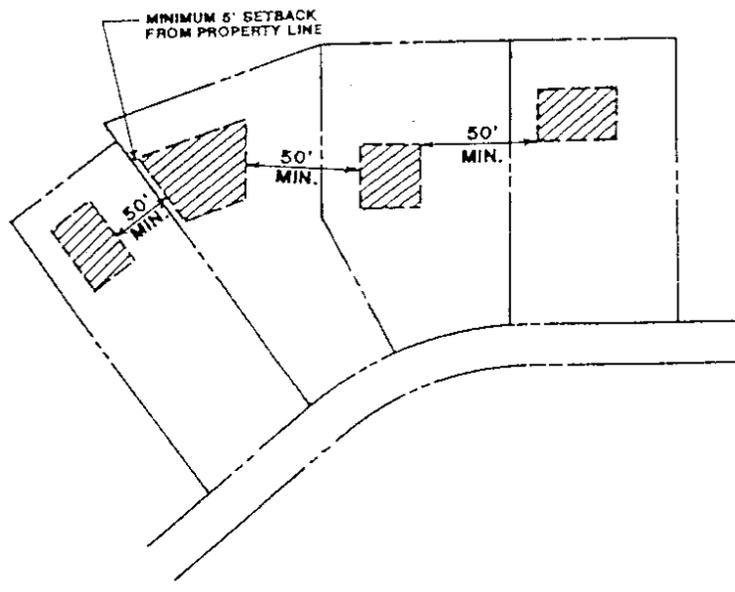
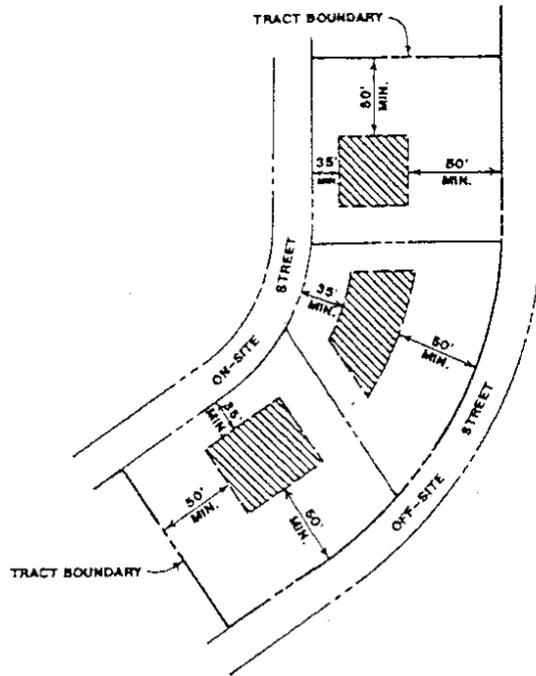
### MAXIMUM HOMESITE



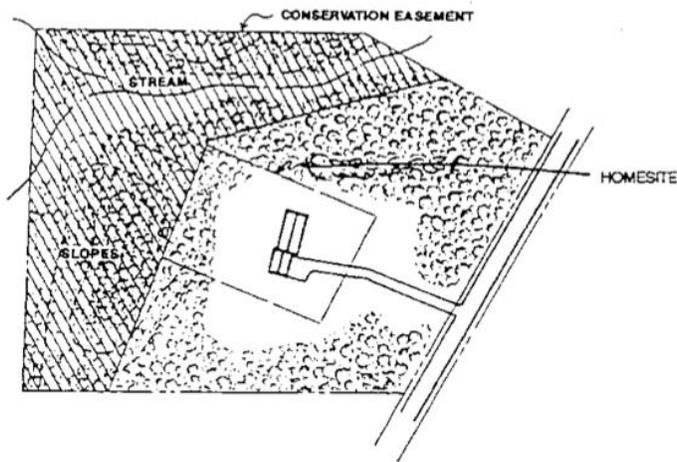
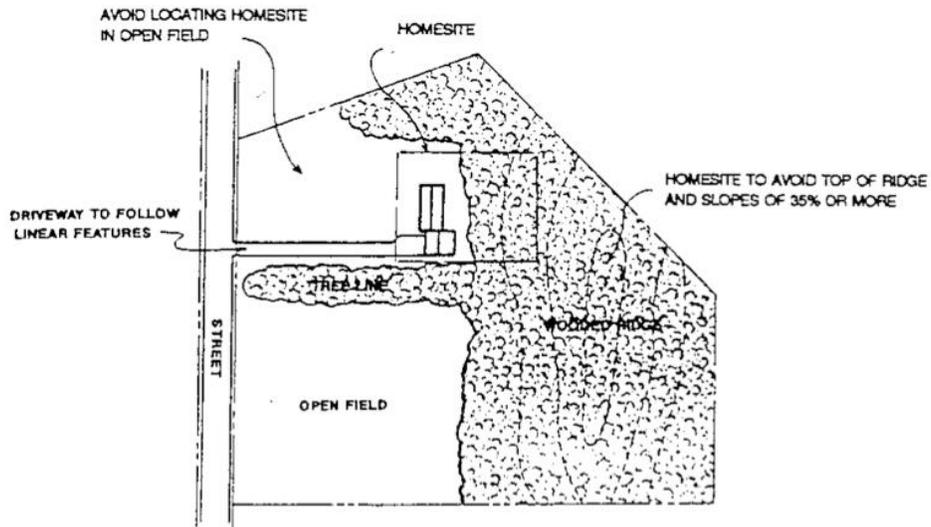
### LIMIT TO DISTURBANCE



# FIGURE 3 SPACING OF HOMESITES



# FIGURE 4 LOCATING HOMESITES



### **Section 1109: Driveways**

*(See Figure 5)*

- A. The use of common roadways is required. The common roadway shall provide a permanent easement or right-of-way of at least twenty (20') feet and shall be constructed a minimum of twelve (12') feet in width with two (2') foot graded and stoned shoulders.
- B. A common roadway in excess of five hundred (500') feet shall provide a ten (10') foot by thirty (30') foot turnout the exact location of which shall be determined by the Development Review Board in consultation with the fire department.
- C. All roadway areas shall be included in the total lot disturbance calculation for the lot on which the roadway is located.
- D. All lots using a common roadway shall provide a roadway maintenance agreement.

### **Section 1110: Common Open Space**

*(See Figure 6)*

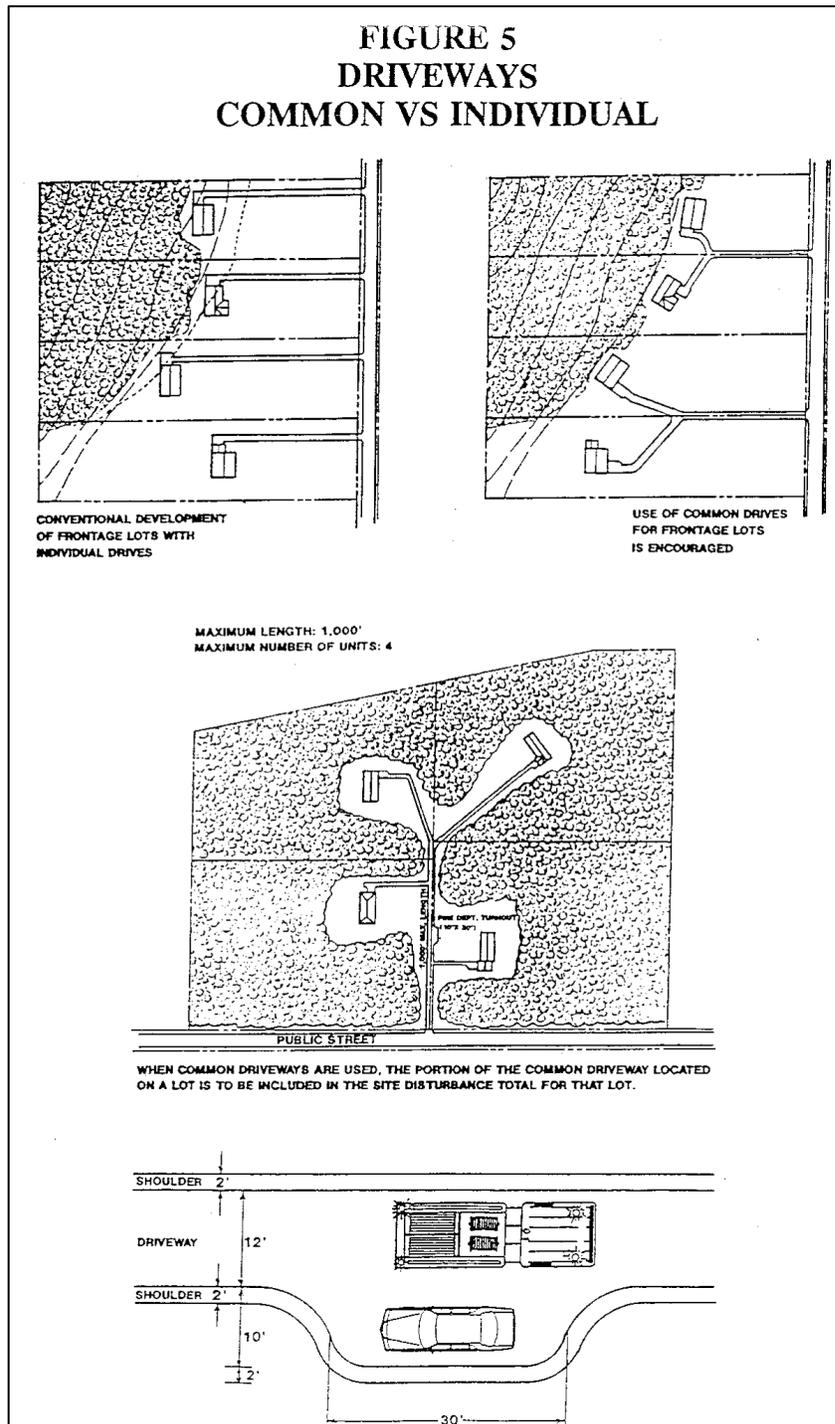
- A. The minimum common open space should be 10 contiguous acres.
- B. At least fifty percent (50%) of the gross acreage shall be kept in common open space. Open space lands shall not contain developments or structures other than septic systems but may be used for agricultural and forestry activities.
- C. Lands that may be included in Common Open Space:
  - 1. Vermont State Prime agricultural lands;
  - 2. Class I and Class II Wetlands
  - 3. Aquifer and wellhead protection areas for public or community water systems;
  - 4. Deeryards;
  - 5. Lands containing rare and/or endangered species or unique habitat; and
  - 6. Land with slopes over twenty-five percent (25%).
- D. Maintenance of Open Space Lands

Open space lands shall be owned jointly or in common by the owners of the building lots or in such other fashion which may be allowed by law; such lands are not to be developed or built upon except as otherwise provided in this Article.
- E. Homeowners' Association For Common Open Space Lands

Where applicable, a homeowners' association will be established for the purpose of permanently maintaining all residual open space and recreational facilities. Such homeowners' association agreements, guaranteeing continuing maintenance, shall be submitted to the Development Review Board for approval prior to the issuance of any permit.

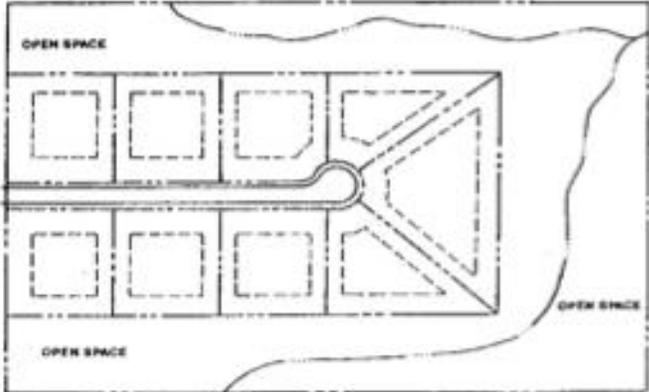
F. Procedure Where Common Open Space Lands not Feasible

If an open space management plan acceptable to the Development Review Board is not possible, the building lots shall be increased in size to include the entire tract area and conservation easements acceptable to the Development Review Board will be used to restrict the area identified as open space that is outside of the homesite.

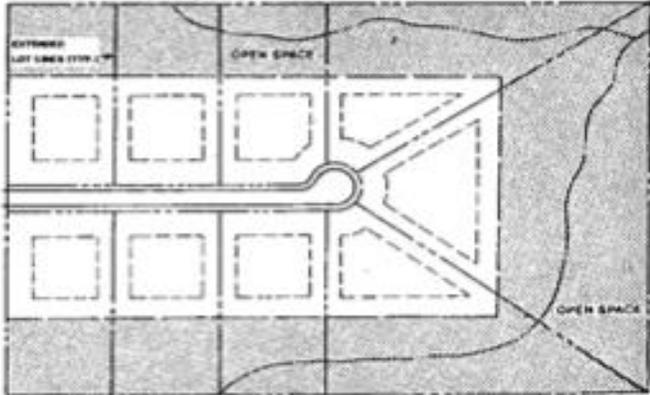


**FIGURE 6  
OPEN SPACE ALTERNATIVES**

**COMMON OPEN SPACE**



**OPEN SPACE IN INDIVIDUAL LOTS  
WITH CONSERVATION EASEMENTS**



**Section 1111: Circulation and Access**

Each compact subdivision shall have only one (1) access point to the town road or public highway unless otherwise approved by the Development Review Board.

**Section 1112: Sewage Treatment**

Sewage treatment facilities must comply with the latest Vermont State Regulations (Environmental Protection Rules Chapter 1 - Small Scale Wastewater Treatment and Disposal Rules). Community facilities are permitted.

**Section 1113: Failure to Complete Compact Subdivision**

A compact subdivision, or portion thereof, shall be completed within five (5) years from the start of construction, unless provision has been otherwise made in the initial permit or the zoning permit for the project shall become null and void. In its discretion, and for good cause, the Development Review Board may, upon request of the applicant, extend for additional one (1) year terms.

**Section 1114: Performance Bond for Compact Subdivision**

Performance bonds in adequate amounts to be determined by the Development Review Board shall be posted to protect the Town for any failures to meet the terms of these Regulations.

**Section 1115: Amendments and Changes for Compact Subdivision**

Any and all amendments or changes to the Compact Subdivision, as approved, shall require approval of the Development Review Board and the issuance of an amended zoning permit by the Zoning Administrator.

## **ARTICLE XII. SIGNS**

### **Section 1201: Purpose**

The purpose of this section is to promote and protect the public health, safety, and welfare by regulating existing and proposed signs in the Town and Village of Poultney. It is further intended hereby to control and reduce the proliferation of signs in order to protect the economic and scenic value of the municipality and in order to prevent hazards to uses of the roads in the municipality.

### **Section 1202: Regulations**

Signs are permitted only in accordance with the following:

- A. Signs must be well-constructed and maintained in good repair and stable condition;
- B. Up to two (2) signs may be displayed on the premises. However, any such sign may designate more than one business or activity on the premises;
- C. Signs may contain up to thirty-five (35) square feet of area on one side; when more than one side of a sign is used, the area of all sides shall be included in the total allowable area.
- D. On premises used primarily as a residence there may be one (1) sign which may contain up to six (6) square feet per side.
- E. One "Real Estate for Sale" sign is permitted for each twelve hundred (1) feet of frontage, or part thereof, on a public road provided that such signs do not exceed an area of six (6) square feet each. Both sides of such signs may be used and may list the name of an agent.

### **Section 1203: Restrictions**

- A. No sign shall be permitted which appears to direct the movement of traffic or which interferes with, imitates, or resembles any official traffic, directional, or route sign, signal, or device;
- B. No signs shall be permitted which prevents a clear and unobstructed view of official signs and approaching or merging traffic;
- C. No lighting of signs shall be permitted unless such lighting is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a public road unless such lighting is of such low intensity or brilliance as to cause no hazard;
- D. No sign or display shall contain any moving parts, nor contain, include, or be flashing, moving, or intermittent light;
- E. No sign shall be erected, attached, or maintained upon trees, or drawn or painted on rocks or other natural features, or upon utility poles;
- F. No sign shall be permitted closer to sidewalk than three (3) feet from any vertical line from the edge of the sidewalk, except when such sign is attached to the face of the building at least eight (8) feet above walking level and protruding no more than six (6) inches from the face of the building. If perpendicular, then no more than three (3) feet from the face of the building;

- G. No sign shall be allowed which is not on the premises of the activity served by the sign;
- H. No advertising material may be attached or placed upon any property, including but not limited to cars, fences, walls, and buildings, by anyone other than the owner or tenant of such property or his or her authorized agent;
- I. No free-standing sign may be more than twenty (24) feet high at the top of the sign;
- J. No sign which is attached to a building may extend above the eaves of that part and side of the building to which the sign is attached;
- K. No sign may be erected within the town highway right-of-way (such as between the sidewalk and the street in the Village) unless approval or permission is granted by the Town Road Commissioner.

**Section 1204: Exemptions**

The following signs are exempt from the provisions of this Article.

- A. Signs erected, maintained, or administered by the municipality or the State of Vermont under Title 10, Chapter 21, whether maintained at private or public expense.
- B. Small signs, without advertising, displayed for the direction, instruction, or convenience of the public, including signs which identify rest rooms, freight entrances, posted areas of the like, with an area not exceeding two (2) square feet, provided such signs are on the premises of the activity served by the sign.

**Section 1205: Nonconforming Sign**

Signs which are not in conformance with the provisions of this Article on the date of adoption of these Regulations may be continued or replaced but may not be expanded or enlarged.

**Section 1206: Discontinuance of Nonconforming Sign**

Any nonconforming sign which has ceased by discontinuance or abandonment for a period of six (6) months shall thereafter conform to the provisions of these Regulations.

## **ARTICLE XIII. SITE PLAN APPROVAL**

### **Section 1301: Permit Required**

A zoning permit shall be issued by the Zoning Administrator any use or structure, only after the Development Review Board grants site plan approval as provided under Section 4460(7) of the Act, except the following cases:

- A. One and two family dwellings and accessory uses; and,
- B. Signs.

### **Section 1302: Application**

The applicant shall submit two (2) sets of site plan maps and supporting data to the Development Review Board which shall include the following information presented in drawn form and accompanied by written text.

- A. Name and address of the owner of record of this and adjoining lands; name and address of person or firm preparing the map; description of the property giving location; scale of map, north point, and date.
- B. Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed structures with distance from lot lines indicated.
- C. Location of proposed use(s), structure(s), and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; exterior lighting; utility service lines proposed, including placement of poles; landscaping plans, including site grading, planting design and screening or fencing; and hours of operation.
- D. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
- E. The location and size of proposed signs.
- F. Any of the above information can be waived at the discretion of the Development Review Board.

### **Section 1303: Review Procedure**

The Development Review Board shall review the site plan map and supporting data and may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and to protecting the use of renewable energy resources.

The following objectives will be taken into consideration during this review:

- A. Maximum safety of vehicular circulation between the site and the street network. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.
- B. Adequacy of circulation, parking and loading facilities. Particular consideration shall be given to the items in (A) above and the effect of noise, glare, or odors on adjoining properties. Refuse and service areas should be included in this consideration. Provisions

for snow removal should also be made. The standards under Article VI Parking and Loading must also be met.

- C. Adequacy of landscaping and screening with regard to achieving maximum compatibility and protection to adjacent property. Particular consideration shall be given to the preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties, and the adequacy of landscaping materials to meet seasonal conditions, soil conditions, and light on the site.
- D. Protection of renewable energy resources. Particular consideration shall be given to the appropriate siting of buildings in order to maximize access for solar gain to the property and adjacent properties.

**Section 1304: Time for Action**

The Development Review Board shall issue a decision within forty five (45) days after adjournment of the public hearing.

## **ARTICLE XIV: DEFINITIONS**

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural. The word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; the words "occupied" or "used" shall be considered as through followed by "or intended, arranged, or designed to be used or occupied"; the word "person" includes "individual, partnership, association, corporation, company or organization".

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

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

**Accessory Use or Building.** A use or building customarily incidental and subordinate to the principal use or building and located on the same parcel of property with such principal use.

**Administrator, FIA.** Refers to the Federal Insurance Administration.

**Agricultural Use.** Land which is used for raising livestock, or agricultural or forest products, including general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry, dairying, apiary, truck gardening, keeping of poultry, farm structures and the storage of agricultural equipment; and, as an accessory use, the sale of agricultural products raised on the property.

**Alteration.** Structural changes, rearrangement, change of location, or addition to a building, other than repairs and modification in building equipment.

**Antique Shops:** (see also secondhand merchandise, retail sales; thrift store) A place offering antiques for sale. An antique, for purposes of this chapter, shall be a work of art, piece of furniture, decorative object or the like, belonging to the past, and at least 50 years old. All such items shall be displayed and / or stored in an enclosed building. Occasional outdoor display of several items is permissible.

**Auto Service Station.** Building or land that is used for the sale of motor fuel, oil, and motor vehicle accessories, and which may include facilities for lubricating, washing, or servicing motor vehicles, but not including painting, major repairs, or detailing.

**Auto Service Station with Retail Store.** An auto service station that also sells products and food unrelated to the primary auto service use. A retail store with gasoline pumps as a secondary use, often referred to as a mini-mart, would also be considered an auto service station with retail store.

**Basement.** A basement shall be counted as a story if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is more than six feet.

**Bed and Breakfast Lodging.** A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

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

**Building Coverage.** See lot coverage.

**Building Height.** 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.

Building height provisions shall not apply to agriculture structures.

**Camp.** A building suitable for seasonal or temporary living purposes and never occupied for more than three (3) months in any twelve (12) month period and without indoor plumbing facilities.

**Camping Trailer.** See Trailer.

**Change in Use.** The change from one use listed in the Table of Uses, to another use listed in the Table of Uses.

**Clinic, Medical.** An office building used by members of the medical and dental profession for the diagnosis and out-patient treatment of human ailments.

**Club or Lodge, Private.** Building and facilities owned and operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

**Community Care Facilities.** A dwelling shared by seven or more persons who are developmentally disabled or physically handicapped who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential.

**Contractors Yards (large equipment).** Large equipment is that which requires overweight or over-dimension vehicle permits.

**Compact Subdivision.** A development that permits the subdivision of land on a comprehensive basis in a manner that will best accommodate residential uses, agricultural and forest land, preserve the town's rural character, protect natural resources, flood hazard land and provide for the best use of the land and open space. (See Article XI)

**Conditional Use.** A use that has been determined to meet the general standards for conditional uses [the Act] for the District in which it is proposed to be located and for which specific standards have been developed and detailed in Article IV.

**Cottage Industry:** An activity, carried out in a dwelling or accessory structure, such as home offices, repair services, business and personal services, and goods produced or manufactured on site and which meets the conditions of Section 406.

**Coverage.** See lot coverage.

**Daycare Facility.** A state registered or licensed facility serving seven or more children.

**Development.** The division of a parcel into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building(s) or

other structure(s), 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.

Development shall not include the usual and customary removal of rock, gravel or related materials from mining operations that pre-exist this regulation or are operating under a valid permit.

**Development Review Board (DRB, The Board).** A body appointed by the Board of Selectmen to decide cases involving variances, conditional uses, appeals, site plan reviews, subdivision applications, local Act 250 application review, and other matters as set forth in these regulations.

**Dormitory.** A building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, convent, monastery, or other similar use. Dormitories do not include kitchen facilities except a group kitchen facility to serve all residents.

**Dwelling Unit.** Building or part thereof used as a living quarters for one family. The terms "dwelling", "one-family dwelling", "two-family dwelling", "multi-family dwelling", or "dwelling group" shall not include a motel, hotel, boarding house, bed and breakfast lodging, or similar structure but shall include mobile home.

**Dwelling, One-Family.** Detached building used as living quarters by one family.

**Dwelling, Multi-family.** Building used as living quarters by three or more families, living independently of each other.

**Dwelling, Two-family.** Building used as living quarters by two families, living independently of each other. A two-family dwelling is a structure with two independent living units, connected directly, or by a permanent passage having a common wall and is not in excess of 12 ft. long. A State permit is required.

**Elderly Housing Complex:** A development of one or more dwelling units in detached or multi-unit buildings on the same lot under common ownership that is dedicated as a housing complex for elderly persons and includes legal covenants or restrictions designed to ensure the occupancy of such buildings principally by persons 55 years of age or older or disabled persons of any age. All buildings, dwelling units and sites shall comply with all applicable state and federal handicapped accessibility requirements. Handicapped individuals of any age shall be eligible to live in an elderly housing complex.

**Elderly Person:** A person at least 55 years old or older at the time of initial occupancy.

#### **Essential Municipal Services:**

The provision of essential public services, including but not limited to:

- The erection, construction, alteration, or maintenance of underground, surface or overhead electrical, gas, steam, water and sewage transmission and collection systems and the equipment and accessory uses necessary for such systems to furnish an adequate level of public service, and;
- Town office facilities, town garage facilities, municipal waste water treatment facilities, municipal water treatment facilities, public libraries, Fire Station, Ambulance Station, Police Station, public schools, and public utility power generating and transmission facilities.

**Family:** One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage or adoption, no such single housekeeping unit shall contain more than five members.

**Food and Beverage Processing Facility.** The preparation and packaging of food and/or beverage (including alcoholic and non-alcoholic) products for distribution and/or wholesale or retail sales, on or off premise.

**Front Line, Building.** The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

**Gasoline Station.** See Auto Service station.

**Grade, Finished.** Completed surfaces of ground, lawns, walks, paved areas, and roads brought to grades as shown on plans relating thereto.

**Gross Floor Area.** The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls, but excluding any area where the floor-to-ceiling height is less than six feet. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

**Group Home:** see Dwelling, One-Family

**Handicapped Person:** A person of any age who has:

- (a) A physical or mental impairment which substantially limits one or more of such person's major life activities,
- (b) A record of having such an impairment, or
- (c) Been regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C. Section 802.

**Historic Site:** An area deemed worthy of preservation for historical reasons. The area may be so classified by either federal, state or local authority.

**Historic Structure:** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 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:
  1. By an approved state program as determined by the Secretary of the Interior or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Home Occupation.** Any use conducted entirely within a primary dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for

living purposes and does not change the residential character thereof. See Section 1205. Self-employed contractors/tradesmen (i.e. painter, carpenter, plumber, mason, electrician, landscaper) are considered home occupations.

**Hotel/Motel.** Building containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting of at least a bedroom and bathroom. Allowable accessory uses are restaurants or other public dining facilities, bars or lounges, public banquet halls, ballrooms, meeting rooms, swimming pools, and spa and fitness centers.

**Hunting Camp.** A structure that is used during hunting season and does not qualify the unit to be upgraded for residential use. No plumbing, running water, or water wells shall be installed. The permit for the hunting camp does not qualify a privy to be considered a pre-existing septic system that can be upgraded.

**Industry, Light.** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

**Junk.** Any old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantles, wrecked, scrapped, or ruined motor vehicles or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition.

**Junk Motor Vehicle.** Any discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home not connected to water and/or sewer, or a vehicle other than an on-premise utility vehicle which is allowed to remain unregistered for a period of 30 days from the date of discovery.

**Junk Yard.** Any place of outdoor storage, abandonment, surrender or deposit for storing, keeping, processing, buying or selling junk or as a scrap metal or similar waste, including the dismantling, demolition, or abandonment of automobile, or other vehicles, machinery, or parts processing facility. "Junkyard" also means any place of outdoor storage or deposit used for storing or keeping three or more junk motor vehicles which have not been inspected or received a sticker from a State approved agency for more than 90 days and which are visible from any portion of a public highway or an adjoining property. It does not mean a *commercial* garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

**Land Development.** See development.

**Loading Space.** Space logically and conveniently located for bulk pickups and deliveries, scaled to the delivery vehicles expected to be used. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

**Lot.** Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on the street, or other means of access.

**Lot Area.** Total area within the property line as shown on the property boundary maps.

**Lot, Corner.** A lot abutting on and at the intersection of two or more streets.

**Lot Coverage.** The percentage of the lot area covered by the building area determined by dividing that area which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

**Lot Depth.** Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

**Lot Frontage.** Distance measured across the width of the lot at the building front line, or the proposed building front line.

**Lot Line.** Property lines bounding a lot.

**Lot Width.** Width measured at right angles to its lot depth, at the required building front line.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the National Flood insurance Program Regulations.

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

**Mobile Home.** See Manufactured home.

**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. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

**Motorcoach/Trailer Park.** A parcel of land under single or common ownership or control which contains, or is designed, land out or adapted to accommodate two or more trailers of motorcoaches.

**Nonconformities:**

- A. **Nonconforming lots or parcels:** Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws,

ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

- B. Nonconforming structure:** 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 Zoning Administrator. For flood hazard area management purposes, the use of a structure which does not comply with the use regulations of the Article VIII.
- C. Nonconforming use:** 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 Zoning Administrator.

**Nonresidential Structure or Use.** All uses of buildings, structures, or land except one, two, and multi-family dwellings.

**Nursing Home.** A place, other than a hospital which maintains and operates facilities, for profit or otherwise, accommodating two or more persons unrelated to the home operator, who are suffering from illness, disease, injury or deformity and require nursing care.

Nursing Home shall include Intensive Care, Skilled Care, Intermediate Care, Minimum Nursing Care, and Pediatric Convalescent facilities.

**Official Zoning Map.** The one true copy of the Town and Village Zoning Map located in the office of the Town Clerk.

**Open Storage.** The keeping in an unroofed area, of any goods, materials, merchandise, or vehicles in the same place for more than 24 hours. All open storage must be effectively screened from view.

**Parking Space:** Off-street space which is at least two hundred (200) square feet, used for the temporary location of one licensed motor vehicle not including access drive-way and having direct access to a street or other right-of-way.

Parking spaces shall not be located in the front yard of any residential structure except in designated driveways.

**Permitted Use.** Use specifically allowed in a district (see Article III) excluding illegal uses, conditional uses and nonconforming uses; permits are required for each permitted use.

**Personal Services.** Includes barber shop, beauty parlor, shoe repair, shoe shine, photographic studio, and businesses providing similar services of a personal nature.

**Planned Unit Development.** A clustering and/or different mixture of principal uses, arrangements of principal buildings and land use densities, than is conventionally provided in the standard subdivision and zoning scheme where each principal building or use is located on an individual lot and setback in a standard fashion from other such buildings and uses. See Article IX.

**Principal Building.** A building in which is conducted the main or principal use of the lot on which said building is located.

**Principal Use.** The predominant way in which a lot, building or other structure is employed.

**Professional Office/Residential Mixed Use:** A use of a structure for one (1) professional office and one (1) single family residential use.

**Professional Residence-Office.** Residence in which the occupant has a professional office of an architect, accountant, chiropractor, dentist, doctor of medicine, landscape architect, land surveyor, lawyer, optometrist, osteopath, physiotherapist, consultant, podiatrist, engineer, or psychologist, which does not change the residential character thereof.

**Public Water, Public Sewer.** Water supply and sewage disposal systems approved by the legislative body for municipal operation. In Poultney, the water and sewage systems operate under the jurisdiction of the Village of Poultney and the Village Trustees.

**Recreation Facility.** Includes public or private meeting hall, place of assembly, museum, gallery, library, or place of further education, not operated primarily for profit.

**Recreation, Public.** Includes golf driving range, golf pitch and putt course, par three golf courses, hunting preserves, skating rinks, swimming pools, parks, beaches, tennis courts, marinas, and other similar publicly owned or operated recreation facility.

**Recreation, Private.** Includes indoor bowling alley, theater, table tennis and pool hall, skating rink, gymnasium, swimming pool, health club, hobby workshop, yacht club, golf course, and archery range, riding stables, park, lake and beach, tennis court, skiing facility, and similar places of recreation privately owned and operated.

**Recreation Uses:** Such as parks, picnic grounds, tennis courts, golf courses, golf driving ranges, archery ranges, hiking and riding trails, riding stables, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites.

**Recycling Collection Point.** A use incidental to the principal use that serves as a local drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi public areas such as churches and schools.

**Religious Institution.** Includes church, temple, parsonage, rectory, parish house, convent, seminary, retreat house, and associated buildings.

**Renewable Energy Structure:** Small-scale power generation facilities, including solar arrays and small wind turbines. For the purposes of these regulations, Renewable Energy Structure uses do not include individual solar panels and thermal collectors, which are deemed accessory.

**Residential Care Home:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator.

**Restaurant.** An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.

**Retail Store.** Includes shop and store for the sale of retail goods, personal service shops, department stores, commercial schools, and shall exclude any drive-up services.

**Riverine.** Relating to, formed by or resembling a river (including tributaries), streams, brooks, etc.

**Road Frontage.** See Street Frontage.

**School.** Includes parochial, private, or public nursery schools, elementary schools, high schools, colleges, universities, and associated accessory uses.

**Self-Service Storage Facility.** A building or group of buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

**Senior Center.** A community facility intended to service the needs and activities of elderly persons.

**Setback.** The horizontal separation required between lot lines (and/or rights-of-way), and the nearest point of a building or structure. The setback line shall be deemed to mean a line parallel to the lot line separated by the required setback distance.

The measurement shall be taken from the rough exterior building walls (structural wall components; excluding trim, exterior siding, stucco or other such finishing materials), or other vertical structural components, to the nearest lot line. Setbacks shall also be taken from the edge of any right-of-way that abuts or passes through the subject lot. In situations where the property line lies within the right-of-way, the setback shall be taken from the edge of such right-of-way.

**Sign.** Sign means any structure, display, device or representation which is designed or used to advertise or call attention to or direct a person to any business, association, profession, commodity, product, institution, service, entertainment, person, place, thing, or activity of any kind whatsoever, and is intended to be visible from a public road. Whenever dimensions or areas of signs are specified, they shall include all panels, frames, and supporting structures excluding the building to which a sign may be attached.

**Sign, Illuminated Internally.** A sign usually constructed of plastic material that is illuminated from an electrical source behind the sign face, referred to as backlighting.

**Site Plan.** A plan, to scale, showing uses and structures proposed for a parcel of land as required by these regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any.

**Slate Mining:** A pit in the earth from which a form of slate, composed mainly of aluminum silicate is excavated or extracted.

**Solar Array.** A solar array consists of multiple solar panels used to convert solar radiation (sunlight) into usable direct current (DC) electricity.

**Solar Panel.** A solar panel is a set of solar photovoltaic modules electrically connected and mounted on a single supporting structure used to convert solar radiation (sunlight) into usable direct current (DC) electricity.

**Story.** Part of a building which is between one floor level and the next higher floor level, or if there is no floor above it, then the ceiling above it. A story shall not exceed twelve feet (12') in height.

**Street or Road.** Public way for vehicular traffic which affords the principal means of access to abutting properties.

**Street Frontage.** The length of a lot which abuts a public street, measured at the street from one lot line to the opposite lot line. Street frontage and lot frontage are not synonymous.

**Stable, Private.** An accessory building in which horses are kept for private use and not for hire, remuneration, or sale.

**Storage Trailer.** Any vehicle which is customarily towed by a motor vehicle and used for carrying or storing goods, equipment, machinery, tools or boats. This includes truck boxes.

**Street Grade.** Officially established grade of the street upon which a lot fronts. If there is not officially established grade, the existing grade of the street shall be taken as the street grade.

**Street Line.** Right-of-way of a street as dedicated by a deed of record. Where width of the street is not established, the street line shall be considered to be thirty (30) feet from the centerline of the street pavement.

**Structure.** An assembly of materials for occupancy or use including, but not limited to, a building, mobile home or trailer, billboard sign, water impoundments, wall or fence, except a wall or fence on an operating farm and small sheds typically used for storage and not exceeding 80 square feet.

**Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- A. before the improvement or repair is started; or
- B. if the structure has been damaged, and is being restored, before the damage occurred.

The term does not, however, include:

- C. any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- D. any alteration of a structure listed on the National Register of Historic Places, or a State Inventory of Historic Places.

**Theater.** An enclosed building or outdoors amphitheater used for the showing of movies or public performances.

**Thrift Store.** An establishment primarily used in the sale of used clothing, household goods, furniture, or appliances. This classification does not include antique shops.

**Trailer.** Includes any camping trailer, travel trailer, pick-up coach or motor home and/or any other vehicle used as sleeping or camping or living quarters mounted on wheels; or a camper body usually mounted on a truck; and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, or boats; or is used as a temporary office.

**Utility, Public.** Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, communications, or transportation.

**Warehouse.** A building used for the storage of goods or materials.

**Wetland.** An area that is inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Yard.** Space on a lot not occupied with a building or structure. Roofed enclosed porches and roofed or enclosed decks shall be considered as part of the main building and shall not project into a required yard setback.

**Yard, Front.** Yard between the front lot line and the front line of a principal or accessory building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building.

**Yard, Rear.** Yard between the rear lot line and the rear line of a principal or accessory building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

**Yard, Side.** Yard between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.

**Zoning Administrator (ZA):** The public official appointed by the Legislative Body to administer the zoning regulations.

**Zoning District.** A section of the Town or Village designated in the zoning ordinance text and delineated on the Official Zoning Map, in which requirements for the use of land, and building and development standards are prescribed.

**Zoning Permit.** The official permit applied for through and issued by the Zoning Administrator for any land development or change of use within the Village or Town of Poultney.

## **ARTICLE XV: GENERAL REGULATIONS**

### **Section 1501: Compliance with Regulations**

No land, building, or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with this Regulation.

No lot shall have an area, width, or a front, side or rear yard, less than that set forth unless otherwise provided for in this Regulation.

The general regulations in this Article apply to all uses and all structures within all districts and supplement the conditions, requirements and standards applicable to specifically regulated uses and structures. Conversely, conditions, requirements and standards set forth elsewhere in these bylaws do not negate or replace these general conditions. In the event of any actual inconsistency between these general regulations and other bylaw provisions, the more restrictive terms as determined by the DRB shall govern.

### **Section 1502: Development of Pre-Existing Small Lots**

Any lot in individual, 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 to minimum lot size requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet. Any such development requires a variance issued in accordance with Section 1705.

### **Section 1503: Merger of Existing Small Lots**

If a lot not conforming to the minimum lot size requirements in the district in which it is located subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

- A. The lots are conveyed in their preexisting, nonconforming configuration.
- B. On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
- C. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
- D. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

### **Section 1504: Required Frontage on, or access to, Public Roads or Public Waters**

Land development may be permitted only on lots which either have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way.

All such access, except legally pre-existing access, must be at least twenty (20) feet in width. The design of access to Town roads must be approved by the Selectboard or their designee.

### **Section 1505: Protection of Home Occupations**

No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse effect upon the residential area in which the dwelling is located. The home occupation shall be carried on by residents of the dwelling unit. One additional employee who is not a resident of the dwelling unit is permitted. Home occupations are:

- A. Accessory uses to residential properties, which are clearly incidental and secondary to the residential use.
- B. Conducted wholly within the principal structure and occupy less than 25% of the entire floor area of such structures.
- C. No retail store.

In order to ensure that a home occupation will not have an undue adverse effect upon the residential area in which the dwelling is located, the owner must demonstrate that it will comply with all of the following standards:

- D. All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit; no outside storage shall be permitted.
- E. No traffic shall be generated which would be uncharacteristic of the neighborhood.
- F. New parking required for the home occupation shall be provided off-street and shall not be located in front yards.
- G. No objectionable vibration, odor, smoke, dust, electrical disturbance, heat, noise, or glare shall be produced by the home occupation.
- H. Exterior displays other than those normally permitted in the district shall be prohibited excepting signs which do not conflict with applicable ordinances.

Where it is determined by the zoning administrator that the proposal does not meet the definitions or standards of home occupations above, the applicant may apply for a permit under the broader use regulations (commercial, industrial, etc.) as determined by the district in which the parcel is located.

### **Section 1506: Accessory Apartments**

An accessory apartment that is located within or appurtenant to an owner occupied single family dwelling shall be a permitted use if it meets the following:

- A. It is clearly subordinate to a single-family dwelling,
- B. It has facilities and provisions for independent living, including sleeping, food preparation, and sanitation,
- C. The property has sufficient wastewater capacity.
- D. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

- E. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

**Section 1507: Churches, Temples, Religious Institutions**

- A. There shall be a minimum lot area of two (2) acres.
- B. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.
- C. There shall be a minimum of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.
- D. Where possible, entrances and exits to the parking lot shall be on non-residential streets.
- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. All driveways, entrances and exits shall be located a minimum of seventy-five (75) feet from any street intersections.

**Section 1508: Public Works Facilities**

- A. No building or groups of buildings shall cover more than thirty percent (30%) of the lot area.
- B. There shall be minimum front, side and rear yards of twenty-five (25) feet.
- C. Off-street parking shall be in accordance with Section 601, and shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- D. All yards shall be sodded and landscaped. Structures not intended to be occupied by persons shall be completely enclosed by a fence, wall, or screened from view by landscaping or other means to the extent that such screening is practical.

**Section 1509: Public Utilities**

This section refers to those public facilities not regulated under 30 VSA §248.

- A. Reasonable use shall be made of the natural topography and screening to lessen the visual impact.
- B. Off street parking shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.

**Section 1510: Yard Setbacks**

Notwithstanding the provision for front setbacks elsewhere in these Regulations, on streets with less than fifty (50) foot right-of-way, the front setback requirements shall be measured from the center line of the existing roadway and twenty-five (25) feet shall be added to that front setback requirement.

**Section 1511: Lot Limitations**

In all districts only one principal building shall be placed on a lot, with the following exceptions:

- A. This restriction shall not apply to working farms where one additional residential structure

- is permitted for use by farm employees and other auxiliary farm structures are customary;
- B. This restriction shall not apply to Planned Unit Developments reviewed in accordance with Article IX.

**Section 1512: Vision Clearance**

In all districts on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at point twenty five (25) feet away from their intersection, there shall be no obstruction to vision between the height of three (3) feet and ten (10) above the average grade of each street.

**Section 1513: Lots in More Than One Zoning District**

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than fifty (50) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

**Section 1514: Reduction of Lot Area**

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these Regulations shall be smaller than prescribed for the district in which the lot is located.

The provisions of this section shall not apply when part of a lot is taken for a public purpose.

**Section 1515: Required Area or Yards**

Space required under these regulations to satisfy area, yard or other open space requirements in relation to one (1) building shall not be counted as a part of a required open space for any other building.

**Section 1516: Temporary Uses and Structures**

Temporary permits may be issued by the Zoning Administrator for a period not exceeding one (1) year, for nonconforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one (1) year.

**Section 1517: Destroyed or Demolished Structures**

Within six (6) months after work on an excavation for a building has begun or within six (6) months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

### **Section 1518: Camping Trailers**

A camping trailer, travel trailer, pickup coach or motor home may only be parked on any public or private property, in accordance with the following regulations:

- A. In an approved trailer camp;
- B. In an approved camping trailer sales lot;
- C. In an approved recreational vehicle storage facility;
- D. The owner of a trailer may park it on his or her own property, in the rear or side yards, providing that the trailer is parked behind the front face of the principal building and are no closer than six (6) feet to any lot line.

If there is no principal dwelling, the trailer must meet the set-back requirements of the district in which the lot is located.

A trailer so parked shall not be used as permanent living quarters for more than three (3) months in any one (1) calendar year and shall not be hooked up to any utilities. The owner must provide evidence of proper sanitary sewage disposal. Any trailer so occupied shall be removed after three (3) months on any lot less than 2 acres.

### **Section 1519: Height of Structures**

No structure shall exceed a height applicable to the district, but this limit shall not apply to spires, chimneys, ventilators, tanks, or similar parts of building, occupying in the aggregate not more than 10 percent of the area of such building, and not used for any television aerials, or windmills with blades less than 20 feet in diameter or to rooftop solar collectors less than 10 feet high which are mounted on complying structures. The maximum height of structures on the lake shall be 30 feet and shall be measured from the road or lakeside, whichever is greater.

### **Section 1520: Building Coverage, Open Porches, Carports and Garages**

In determining the percentage of building coverage of a lot or the size of yards, porches or carports open at the sides but roofed, and all principal and accessory buildings shall be included.

### **Section 1521: Approval of Plats**

No proposed plat of a new subdivision or re-subdivision shall be approved unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this regulation. This requirement shall not apply to compact subdivisions.

### **Section 1522: Ponds requiring Permits**

The creation of any pond requires the issuance of a permit from the Zoning Administrator and must meet district setback requirements.

**Section 1523: Equal Treatment of Housing**

Nothing herein shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing, from the municipality, except upon the same terms and conditions as conventional housing is excluded.

This bylaw shall not have the effect of excluding multiunit or multifamily dwellings from the Town of Poultney.

Nothing herein shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in the Act.

**Section 1524: Site Development**

Any development including bringing in fill or removing earth in excess of fifty-six (56) cubic yards as a minimum with an addition of 28 cubic yards per acre per year shall require a permit. For a parcel of less than one (1) acre, any deposit or removal of more than fifty-six (56) cubic yards shall require a permit. Loam, slate, rock, gravel, sand, cinders, and soil may be used for fill.

In any District the dumping of waste material and refuse for landfill is prohibited.

See Section 1603 for exemptions.

See Section 201 for additional erosion control requirements in Lakeshore District.

The applicant must demonstrate the proposed introduction or removal of fill will not create soil erosion, alter the natural flow of surface waters onto other parcels, remove subjacent support to abutting parcels, adversely affect easements or rights of way nor adversely affect public highways or infrastructure.

**Section 1525: Open Storage**

No unregistered or un-licensed vehicles, or open storage are permitted in the front yard in any District.

In any district, the following may only be stored and screened from view in the side or rear yards. However, it does not include a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

- A. Vans and trucks of more than two tons carrying capacity that are used for commercial purposes;
- B. Not more than two (2) or more unregistered or uninspected motor vehicles (excluding farm equipment).
- C. Cars used for the purposes of competitive racing;
- D. Items used for commercial purposes (ie. “junkyards,” “antiques”).

**Section 1526: Location of Driveways**

All driveways are to be located at a point at least forty feet from the street intersection.

### **Section 1527: Fences in Residential Districts**

In any residential district, fences may be built in side and rear yards provided they do not exceed six (6) feet in height and are maintained in a proper state or repair with the finished side of such fence facing adjacent properties. Posts are on the unfinished side.

For the purposes of this section, a fence shall be measured from the top of the fence to the ground surface. The contour of the property shall not be raised from its current height. Fences shall comply with the provisions of Section 1212 (Vision Clearance).

A fence that does not exceed six feet in height may be located at the property line in any side or rear yard and shall not require a permit. Any fence which exceeds six (6) feet in height shall be deemed a structure.

Any fence located adjacent to a publicly owned or maintained sidewalk, bike path or pedestrian way shall not be located closer than three (3) feet to such public facility. An opaque fence located in a front yard shall not exceed 29 nine inches in height unless it meets the front yard setback for the Zoning District it is located.

The Development Review Board may authorize the use of fences which exceed the six (6) foot requirement for non-commercial and Industrial Districts that border Residential Zoning Districts. The Development Review Board may authorize exceptions for security or safety purposes and may require landscaping to mitigate visual impacts.

### **Section 1528: Storage of Flammable Liquids, Solids, and Gases**

Storage of flammable liquids, solids and gases shall comply with the relevant provisions of the Fire Code of the National Board of Fire Underwriters and NFPA, as determined by the Development Review Board, and all applicable State regulations. It shall be the applicant's responsibility to furnish all appropriate certifications to the Zoning Administrator prior to the issuance of a zoning permit.

### **Section 1529: Performance Standards**

No land or building in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious, or otherwise objectionable conditions in such a manner or in such an amount as to adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose. The burden of proof that the following standards are met shall be on the applicant. See Section 1603: Exemptions for limitations on these standards.

- A. **Noise:** No noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted.

Noise in excess of the following stated limits are considered a violation:

1. At any point where the property on which the noise emanates adjoins any property used for residential purposes noise shall not exceed the following levels of intensity:

<b>Time Period</b>	<b>One Hour Average dBA</b>	<b>Instantaneous Maximum dBA</b>
12:00 AM to 7:00 AM	50	60
7:00 AM to 12:00 Midnight	70	80

2. At any point where the property on which the noise emanates adjoins any property used for commercial purposes:

<b>Time Period</b>	<b>One Hour Average dBA</b>	<b>Instantaneous Maximum dBA</b>
12:00 AM to 7:00 AM	60	70
7:00 AM to 12:00 Midnight	80	90

3. At any point where the property on which the noise emanates adjoins any property used for industrial purposes:

<b>Time Period</b>	<b>One Hour Average dBA</b>	<b>Instantaneous Maximum dBA</b>
12:00 AM to 7:00 AM	60	70
7:00 AM to 12:00 Midnight	80	90

4. For purposes of this regulation, the following terms shall be defined as stated below:

- a. Decibel - a unit measure of sound level;
- b. Sound Level - in decibels measured by a sound level meter, using "A" frequency weighting (expressed in DBA)
- c. Average sound level - a sound level during a given period of time (e.g., one hour) found by the general rule of combination of sound levels. Also called equivalent sound level.

- B. **Odor:** No emissions of objectionable odor beyond the property line of a premise shall be discharged, caused, allowed, or permitted.
- C. **Fly Ash, Dust, Fumes, Vapors, Gases, Other Forms of Air Pollution:** No emission shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property which can cause any excessive soiling, at any point on the property of others.
- D. **Vibration:** No vibration shall be permitted which shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner under normal conditions.

- E. **Glare, Lights, Reflection:** No glare, lights, or reflection shall be permitted which are a nuisance to other property owners or tenants or which could impair the vision of a driver of any motor vehicle or which are detrimental to public health, safety, and welfare.
- F. **Fire, Explosive or Safety Hazard:** No fire, explosive, or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities or services.
- G. **Storage of Flammable Liquids:** The storage of any highly flammable liquid in tanks above ground with unit capacity greater than five hundred-fifty (550) gallons shall be prohibited, unless such tanks up to and including ten thousand (10,000) gallon capacity are placed not less than eighty (80) feet from all property lines, and unless all such tanks of more than ten thousand (10,000) gallon capacity are placed not less than two hundred (200) feet from all property lines. In any case, the storage of flammable liquids will not be allowed within the Village boundaries.

#### **Section 1530: Yards on Corner Lots**

Any yards adjoining a street shall be considered a front yard for the purposes of these regulations, and shall meet the minimum front yard requirements.

#### **Section 1531: Storage Trailers**

Storage trailers may be placed on lots with a lot size greater than 5 acres, shall meet the setback requirements of the district, and must be screened or fenced and placed in the rear yard. A permit shall be required. The owner of the lot is considered to be the owner of the trailer. A maximum of one trailer may be stored on the lot. Proof of ownership shall be required. Van bodies are permitted in the Industrial Zoning District.

#### **Section 1532: Erosion Control Plan**

Any development in the Lake Shore District, or within 50 ft of water, shall require an Erosion Control Plan.

#### **Section 1533: Slope**

The purpose of this Section is to prevent soil loss and protect natural and man-made critical features such as neighboring properties, water courses, storm drainage systems, wetlands and natural areas from unstable slope/ soil conditions, erosion and sedimentation resulting from construction earthwork. The following rules shall apply:

- A. In no case shall excavation be undertaken adjacent to a property line which results or causes unstable slope conditions to extend onto the abutting property.
- B. The Vermont Handbook for Erosion Prevention and Sediment Control on Construction Sites shall be used as a reference to determine the necessary erosion control measures for a proposed project.
- C. Restrict settlement in areas where slopes are in excess of 20 percent, unless the developer has implemented site designs and/or structural elements which address the adverse effects of development on steep slopes.

- D. Finished grades for new roads should not exceed 7 percent for unpaved roads and 10 percent for paved roads although reasonable sections with steeper grades may be permitted if appropriate safety and maintenance provisions are implemented.

**Section 1534: Farm Animals**

Unless kept or raised as an Accepted Agricultural Practice as defined by the Secretary of Agriculture, Food and Markets, with the exception of Agricultural Zoning Districts (ARR-2, ARR-5 and ARR-10), no farm animals (including, but not limited to, horses, cows, hogs, fowl) may be kept or large-scale animal raising undertaken unless the following criteria are met:

- A. Animal housing and piles of manure, feed, or bedding are located so as to minimize odor and other nuisances to neighboring landowners. In the absence of an otherwise acceptable plan, the minimum distance of each from any lot line or street shall be 100 feet;
- B. Manure piles are located so as to minimize the possibility of pollution to wells and surface waters. In the absence of an otherwise acceptable plan, manure piles shall be located no closer than 200 feet from surface waters. If a manure pile is located upslope from a well, the isolation distance shall be at least 200 feet; if it is located downslope from a well, the isolation distance shall be at least 100 feet;
- C. Roosters are prohibited from the Village Zoning districts (VC, VR, and VI);
- D. Areas on the property where slaughter takes place shall be shielded from public view.

## **ARTICLE XVI: ADMINISTRATION AND ENFORCEMENT**

### **Section 1601: Zoning Administrator**

An Zoning Administrator shall be appointed for a three year term by the Selectboard on the nomination of the Planning Commission to administer the Zoning Regulations.

The Zoning Administrator shall administer this Regulation literally and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these Regulations.

The Zoning Administrator may enter upon property in the performance of his or her duties, to inspect property for which application for a zoning permit has been made, or upon which unauthorized development is occurring. This inspection shall take place in the presence of the owner of the property, or after prior written notice by certified mail.

An acting Zoning Administrator may be appointed by the Selectboard on the nomination of the Planning Commission. This Officer shall have the same duties and responsibilities as the Zoning Administrator when that individual is absent.

### **Section 1602: Zoning Permits: General**

A. No building construction or land development may commence and no land or structure may be devoted to a new or changed use within the municipality without a zoning permit duly issued.

The issuance of a zoning permit does not relieve the applicant's responsibility from obtaining any other required State or Federal permits or approvals as necessary.

B. All applications shall be submitted to the Zoning Administrator on forms furnished by him/her and shall be accompanied by two copies of a sketch plan, showing the dimensions of the lot to be built on, location of the building and accessory buildings to be erected, a surveyor's plot plan of the property, if available, and such other information as may be necessary to determine and provide for the enforcement of this Regulation.

C. An application for any permit shall be accepted by the Zoning Administrator only if it is complete and is accompanied by cash in the correct amount, or a check or money order made out to the Town of Poultney for the amount of the specified fee, as established and reviewed by the Board of Selectmen from time to time, and any other approvals required by these regulations including copies of all approved State permits required for the requested use(s).

**Application Requirements.** An application for a zoning permit shall be filed with the Zoning Administrator on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application. Applicants shall furnish with their application any relevant restrictive covenants related to the parcel for which development is proposed. In addition, the following information will be required as applicable:

**Permitted Uses.** Applications shall include a sketch plan, no smaller than 8.5" x 11", that depicts the following:

- (1) the dimensions of the lot, including existing property boundaries,
- (2) the location, footprint and height of existing and proposed structures or additions,
- (3) the location of existing and proposed accesses (curb cuts), driveways and parking areas,
- (4) the location of existing and proposed easements and rights-of-way,
- (5) existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
- (6) the location of existing and proposed water and wastewater systems, and
- (7) other such information as required by the Zoning Administrator to determine conformance with these regulations.

**Uses Subject to Development Review.** For development requiring one or more approvals from the Development Review Board prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Secretary of the Board.

Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the **Development Review Board** and/or state for consideration. If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31<sup>st</sup> day.

Within three days following the issuance of a zoning permit, the zoning administrator shall post a copy of the permit in the Town Clerk's office until the expiration of the appeal period. The zoning administrator must also post a permit notice, on a form prescribed by the Town of Poultney within view of the public right of way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.

### **Section 1603: Exemptions**

No zoning permit shall be required for the following activities, unless located in the Special Flood Hazard Area (see Article VIII for exemptions within Special Flood Hazard Areas):

- (1) Accepted agricultural (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act . Written notification, including a sketch plan showing structure setback distances from road rights-or-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- (2) Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act.

- (3) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
- (4) Hunting, fishing, and trapping as specified under the Act on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
- (5) Subdivisions of land that require subdivision approval
- (6) Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.
- (7) Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- (8) Exterior alterations to structures which do not result in any change to the footprint or height of the structure or a change in use
- (9) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
- (10) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 416 or 417.
- (11) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
- (12) Small accessory buildings associated with residential uses which are less than 64 square feet of floor area and less than eight (8) feet in height, and are not located within required setback areas.
- (13) Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

The following uses may extend 50% into setbacks and may be regulated only with respect to location, height, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements:

- (1) Essential Municipal Services

#### **Section 1604: Zoning Permits: Flood Hazard District**

Development within the Flood Hazard District shall meet the requirements of the Article VIII.

**Section 1605: Effective Date**

No zoning permit shall take effect until the time for appeal under Section 1714 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

No site work or building shall occur until the effective date of the permit.

**Section 1606: Completion**

All activities as authorized by the issuance of the permit shall be commenced within a two (2) years of the effective date of the permit and shall be completed within five (5) years of the effective date or the permit shall become null and void. Re-application and re-issuance of another zoning permit shall be required to complete the activities as initiated under the original permit. Where a violation occurs for Section 1605 or 1606, the time constraints for effective-date or completion of a re-issued permit shall be *not more than 120 days*.

**Section 1607: Enforcement**

The Zoning Administrator shall enforce the provisions of this Regulation in conformity with the Act which permits the Zoning Administrator to institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate a violation.

**Section 1608: Special Duties relating to Flood District Permits**

All Special Duties relating to Flood District Permits are regulated by Article VIII.

## **ARTICLE XVII: DEVELOPMENT REVIEW BOARD**

### **Section 1701: Creation of Development Review Board**

There is hereby created a Development Review Board for the Town of Poultney.

### **Section 1702: Appointment and Term of the Board**

A. Members.

The Development Review Board shall consist of five (5) members.

B. Appointment.

Members of such Board shall be appointed and any vacancy filled by the Selectmen. The terms of each member shall be for two (2) years. Any member of the Development Review Board may be removed for cause by the Board of Selectmen upon written charges and after public hearing.

C. Alternates.

Up to three (3) alternate members of such Board and any vacancy may be filled by the Board of Selectmen. Alternate members may sit on the Development Review Board in situations where one or more members of the Board are disqualified or are otherwise unable to serve. Alternate members shall have terms of two (2) years. Any alternate member of the Development Review Board may be removed for cause by the Board of Selectmen.

An alternate that is called upon to serve shall be required to be a part of the Board until a decision is made on the application under consideration.

D. Appropriations.

The Town shall make such appropriations in its annual budget as are sufficient to afford the Development Review Board the technical and material assistance necessary to the fulfillment of its duties as outlined herein.

### **Section 1703: General Powers and Duties of the Board**

A. General Powers.

The Development Review Board is a body with limited powers.

Except as specifically provided herein and in accordance with the provisions of the Act, the Development Review Board may not amend, alter, invalidate or affect any plan or bylaw of the Town or the implementation or enforcement thereof, or allow any use not permitted by the Zoning Regulations or any other bylaw.

B. General Duties

The Development Review Board shall be charged with the proper interpretation of the Zoning Regulations and their consequent application within the town, and with the administration of the procedures allocated to it by this Zoning Regulation including the following:

1. To hear and rule on appeals to any order, requirement, decision or determination made by the Zoning Administrator in the administration and enforcement of the Zoning Regulations.
2. To hear and grant or deny a request for a variance or waiver in the application of provisions of the Zoning Regulations in accordance with Sections 1704, 1705, 1706 and 1707.
3. To hear and rule on
  - a. Applications for a conditional use
  - b. Applications for a Planned Unit Development
  - c. Applications for the repair, relocation, replacement, or enlargement of a nonconforming structure within the Flood Hazard District; these duties are defined in Article VIII.
  - d. Applications for a site plan review if the Board determines that the proposal conforms to the standards as designated in the Zoning Regulations.
  - e. Applications for nonconformity enlargement, repair, replacement, and extension.
  - f. Applications for rights-of-way or easements for development lacking frontage.
  - g. Requests for waivers of dimensional standards.
  - h. Applications for a subdivision of land
4. To present findings, in accordance with procedures set out in the Municipal Administrative Procedures Act, on criteria 6, 7, and 10 (Educational Services, Municipal Services, Local Plans), of all Act 250 applications within the Town of Poultney.
5. To hear, review, and decide, after due public notice and hearing, all matters referred to it or upon which it is required to pass according to this or any other regulation.

C. Applications

Every request to the Development Review Board shall be filed with the Secretary of the Board, who shall be the Zoning Administrator, on forms provided by the Secretary and in accordance with the appropriate provisions of these Regulations except for appeals for a variance under Section 1705 or an appeal from actions of the Zoning Administrator. In those cases, the applications shall be filed with the Town Clerk.

**Section 1704: Specific Powers of the Board to Grant Waivers**

- A. Waivers may be granted for a permitted use by the Zoning Administrator to reduce dimensional requirements as needed to allow for disability accessibility, fire safety, and other requirements of law.

- B. Waivers may be considered by the Development Review Board for Conditional Uses to reduce dimensional requirements, but not density requirements, if the proposed development meets any of the following criteria:
1. The proposed development conforms to the existing development patterns of the immediate neighborhood.
  2. The proposed development will more effectively preserve open land or scenic vistas.
  3. The proposed development will provide for energy conservation and renewable energy structures.
  4. Meeting the dimensional requirements will create an undue hardship on the applicant and the hardship was not created by the applicant.
- C. Requirements  
The Development Review Board may grant a conditional use waiver if the Board finds that the proposed development meets ALL the following standards:
1. The proposed development shall not reduce the dimensional requirements by more than the minimum amount necessary.
  2. The proposed development does not alter the essential character of the neighborhood or district in which the property is located.
  3. The proposed development does not substantially or permanently impair the appropriate use or development of adjacent property.
  4. The proposed development does not reduce access to renewable energy resources.
  5. The proposed development shall not be detrimental to the public welfare including the safety and maintenance of the Town's highways.
- D. Any variance or waiver approval granted under this Bylaw shall expire two (2) years from the date of the written decision granting such approval unless a zoning permit has been issued by the Zoning Administrator for the approved project.
- E. The approval or denial of a variance or waiver by the DRB may be appealed to the Environmental Court in a manner as specified in Section 4471 of the Act. The approval or denial of a waiver by the Zoning Administrator may be appealed to the DRB

**Section 1705: Specific Powers of the Board to Grant Variances**

A. Requirements

On an appeal where a variance from the provisions of the Zoning Regulation constitutes the relief requested by the appellant, the Development Review Board may grant such variances, and render a decision in favor of the appellant, if all the following facts are established by the Board and are specified in its decision:

1. That there are unique physical circumstances, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is

due to such conditions and not the circumstances generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.

2. That as a result of such physical problems, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  3. That such unnecessary hardship has not been created by the appellant.
  4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, and
  5. That such variance if authorized represents the minimum that will afford relief, and provide the least modification possible of the Zoning Regulations and of the comprehensive plan.
- B. Before granting the variance, the Development Review Board in its review of the appeal shall also make a finding of fact that the variance, if granted, will not conflict with any one of the several purposes and intent of the Zoning Regulations.
- C. In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions to the variance as it considers necessary and appropriate under the circumstances to implement the various purposes of these Regulations and the town plan then in effect.

#### **Section 1706: Variances - Flood Hazard District**

Variances within the Flood Hazard District are regulated in Article VIII.

#### **Section 1707: Variances - Renewable Energy Resource Structure**

On an appeal where a variance from the provisions of a zoning regulation is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variances, and render a decision in favor of the appellant if all the following facts are found and the finding is specified in its decision.

- A. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the regulations; and
- B. That the hardship was not created by the appellant; and
- C. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

- D. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

**Section 1708: Officers of the Board**

The Development Review Board shall annually elect its own officers and adopt rules of procedure subject to the provisions of these Zoning Regulations and the Act. The officers of the Board may administer oaths and compel the attendance of witnesses and the production of material pertinent to any issue under appeal.

**Section 1709: Meetings**

Meetings of the Board shall be held at the call of the chair and at such times as the Board may determine. All such meetings shall be open to the public.

**Section 1710: Rules of Procedure**

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act and Vermont's Open Meeting Law. In the case where the Board is reviewing an Act 250 application, the procedures set forth in the Municipal Administrative Procedures Act shall be in effect.

The Board, in connection with any proceeding, may examine or cause to be examined any property, maps, books or records bearing upon the matters concerned in such proceeding. The Board may require the attendance of any person having knowledge in the premises, may take testimony and require proof material for its information. The Board may administer oaths or take acknowledgment in respect of such matters. Any of the preceding powers may be delegated by the Board to a specifically authorized agent or representative.

**Section 1711: Minutes and Findings**

The Board shall keep minutes of its proceedings, indicating the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk of the municipality as a public record.

All findings and actions of the Board shall be in writing and shall include the reasons for the action taken irrespective of its nature. Findings shall be detailed and in specific terms, discussing the cause of the decisions, beyond such generalities as "in the interest of public health, safety and general welfare." In every instance, a statement of the facts upon which such action is based shall appear in the minutes.

**Section 1712: Quorum and Votes**

For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the Board and any action thereof shall be taken by the concurrence of

a majority of the Board.

### **Section 1713: Local Act 250 Review**

The Board is hereby authorized to undertake local Act 250 review of municipal impacts caused by a “development” and/or “subdivision”, as such terms are defined in 10 VSA Chapter 151.

With respect to such “developments” and/or “subdivisions”, the Board, pursuant to the procedures established under the Act, shall hear applications for local Act 250 review of municipal impacts at a duly warned public hearing.

All applicants for Act 250 permits for such “developments” and/or “subdivisions” located within the town of Poultney shall go through this review process, unless all of the following apply:

1. The applicant can establish to the satisfaction of the Board that the applicant relied on a determination by the Vermont Environmental Board’s local district\_coordinator that the Act 250 jurisdiction did not apply to the “development” and/or “subdivision” in question and based upon that reliance, the applicant obtained local permits without complying with the requirements for local Act 250 review;
2. The Vermont Environmental Board’s local district coordinator’s jurisdictional ruling was later reconsidered or overturned on appeal, with the result that Act 250 jurisdiction does apply to the “development and/or “subdivision” in question; and,
3. The Board waives its local Act 250 review jurisdiction in the interest of fairness to the applicant.

Determinations by the Board regarding whether or not to waive jurisdiction under this subsection shall not be subject to review.

In the Board’s local Act 250 review proceedings, the applicant shall demonstrate to the satisfaction of the Board that the proposed “development” and/or “subdivision”:

1. Will not cause an unreasonable burden on the ability of the municipality to provide educational services (Act 250 Criterion 6);
2. Will not cause an unreasonable burden on the ability of the municipality to provide municipal or governmental services (Act 250 Criterion 7); and,
3. Is in conformance with the Town Plan as adopted in accordance with the Act (Act 250 Criterion 10).

At the request of the Planning Commission, the Board may provide comment to the Planning Commission on all other Act 250 criteria for any “development” and/or “subdivision” undergoing Act 250 review within the town of Poultney.

### **Section 1714: Appeals to the Board, Applications and Stay of Enforcement**

An interested person may appeal any decision or action taken by the Zoning Administrator by filing a notice of appeal with the Secretary of the Development Review Board. Where the Zoning Administrator and the Secretary of the DRB are one and the same, an interested person may appeal the decision by filing a notice of appeal with the Town Clerk.

**A. Time for Filing**

If the appeal is made with respect to any decision or action of the Zoning Administrator, such notice of appeal must be filed within fifteen (15) days of the date of such decision or action and a copy of the notice of appeal shall be filed with such officer.

- B.** An appeal may be rejected by the Board without a hearing if the Board considers that the issues raised were decided in an earlier appeal or that the facts are the same or substantially the same facts.

**C. Interested Persons**

For the purpose of these regulations, an interested person means any one of the following:

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

**D. Notice of Appeal**

Any notice of appeal shall be filed in writing with the Secretary of the Board on forms provided by the secretary which shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is made, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant and the alleged grounds why such requested relief is believed appropriate under the circumstances.

**E. Application**

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act :

- (1) the name and address of the appellant,
- (2) a brief description of the property with respect to which the appeal is taken,

- (3) a reference to applicable provisions of these regulations,
- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- (5) the alleged grounds why such relief is believed proper under the circumstances.

**F. Hearing on Appeals**

The Development Review Board shall set a date for a public hearing for an appeal under these Regulations, which shall be within sixty (60) days of the filing of the notice of such appeal in accordance with Section 1714 D.

The Board shall give public notice of the hearing, and shall mail to the appellant a copy of such notice at least fifteen (15) days prior to the hearing date. Copies shall also be sent to adjoining property owners if known, although failure to comply with this provision shall not invalidate any action taken.

Any interested person as defined in 1714 C may appear and be heard in person or be represented by an agent or attorney at such hearing.

Any hearing held under this section may be adjourned by the Board on occasion, provided however, that the date and place of the reconvened hearing shall be announced at that time.

All hearings held under this section shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies. Deliberative sessions for the purpose of considering testimony taken need not be open to the public.

**G. Decisions on Appeals.**

The Development Review Board shall render its decisions on each appeal, which shall include written findings of fact, within forty-five (45) days after completing the final hearing.

Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing, and a copy thereof shall be filed with the Zoning Administrator and the clerk of the municipality as a part of the public records.

If the Board fails to act within this period, it shall be deemed to have made the decision in favor of the appellant and granted the relief requested on the last day of such period.

**Section 1715: Appeals from Decisions of the Board**

An interested person may appeal a decision of the Development Review Board to the Environmental Court.

Notwithstanding the provisions of Section 4471(a) of the Act, decisions of the Board under section 4449 of the Act, with respect to local Act 250 review of municipal impacts, are not subject to appeal, but shall serve as presumptions under the provisions of 10 VSA Chapter 151 (Act 250).

## **ARTICLE XVIII: PLANNING COMMISSION**

### **Section 1801: Continuation of the Planning Commission**

The Planning Commission representing the Town of Poultney shall have not less than three (3) nor more than five (5) members.

### **Section 1802: General Review of the Zoning Regulation**

The Planning Commission shall carry on a continuous review of the zoning ordinance and initiate proposals for amendment as required.

As part of the accomplishment of its duties the Planning Commission shall maintain complete records of its proceedings, studies and recommendations, as well as keep the Selectboard informed on the current status of the Zoning Regulations and their effectiveness within the Town.

### **Section 1803: Review of Zoning Amendments**

The Planning Commission shall receive and evaluate proposals for amendment of the Zoning Regulations, hold public hearings on such amendments after due public notice as required in Section 1903, and make recommendations to the Selectboard with respect to such amendments.

### **Section 1804: Advisory Counsel to Other Agencies**

Upon request, the Planning Commission shall serve as guide and counsel to the Selectmen of the Town, the Zoning Administrator, the Development Review Board, and other public offices in matters relative to the Zoning Regulations.

### **Section 1805: General Rules of Procedure**

No meeting or hearing in any way affecting the zoning ordinance may be held by the Planning Commission without the attendance of a majority of the Commission members; neither may any official action be taken with respect to the Zoning Regulations without the concurrence of a majority of the Commission members.

The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under the Act and Vermont's Open Meeting Laws. In accordance with the Act, the Commission shall have the following duties in association with these regulations:

- A. To prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition (Section 1714 C);
- B. To prepare and approve written reports on any proposed amendment to these regulations as required by the Act; and
- C. To hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Legislative Body [§4441(d)].

## **ARTICLE XIX: OTHER PROVISIONS**

### **Section 1901: Penalties for Violation**

Any person who violates these Zoning Regulations after they have been adopted shall be liable for penalties as prescribed in Section 4451-4452 of the Act.

### **Section 1902: Interpretation of Regulation**

The provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except as provided to the contrary in the Act or these regulations, it is not intended by these regulations to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these regulations shall control.

### **Section 1903: Notice of Hearing**

In accordance with the Act, a warned public hearing shall be required for conditional use review (Article IV), Planned Unit Development review (Article IX), appeals of decisions of the Zoning Administrator and variances (Sections 1714 and 1705, respectively) and final subdivision review. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (1) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- (2) written notification to the applicant from the Zoning Administrator providing the information in (1) above;
- (3) posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- (4) written notification to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, shall be the responsibility of the applicant, who must be able to demonstrate proof of delivery to either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The notice must include a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
- (5) for hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

Public notice of all other types of development review hearings, including site plan review (Article XIII) shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

- (1) posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
- (2) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Development Review Board or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

#### **Section 1904: Fees**

Fees may be established by the Selectboard in amounts necessary to cover all costs of the Zoning Administrator, the Development Review Board and the Planning Commission for such items as processing applications, including costs of material, administrative time, and reasonable overhead such as postage, telephone and the use of consultants to assist in project review.

#### **Section 1905: Amendments**

Any provision of this Regulation, as well as the boundaries of the various zoning districts established herein, may be amended or repealed subject to the provisions of the Act.

#### **Section 1906: Severability**

Should any court of competent jurisdiction judge any provision of this Regulation to be invalid, such judgment shall not affect the validity of the Regulation as a whole or any part other than the part so declared to be invalid.

#### **Section 1907: Effective Date**

This Regulation shall take effect upon approval in accordance with the voting and other procedures contained in Section 4442 of the Act.