

NEWBURY ZONING REGULATIONS

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Newbury Planning Commission

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1 GENERAL PROVISIONS

1.1 ENACTMENT: In accordance with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, herein referred to as the "Act", and 24 V.S.A. Chapter 59, there are hereby established Zoning Regulations for Newbury, Vermont which are set forth in the text and map that constitutes these regulations. These regulations shall be known and cited as the "Town of Newbury, Vermont, Zoning Regulations."

1.2 INTENT: It is the intent of these Zoning Regulations to provide for orderly community growth and to further the purposes established in the Act, Section 4302.

1.3 AMENDMENTS: These regulations may be amended according to the requirements and procedures established in Section 4441 and 4442 of the Act.

1.4 INTERPRETATION: In their interpretation and application, 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.

1.5 PRECEDENCE: Wherever these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, permit, easement, or agreement, the provisions of these Regulations shall control.

1.6 REFERRAL TO STATE AGENCY: In accordance with Section 4448 (c) of the Act, no Zoning Permit for the development of land in certain locations shall be issued by the Administrative Officer without first submitting a report to the appropriate State Agency named therein.

1.7 EFFECTIVE DATE: This Ordinance shall take effect in accordance with the voting and other procedures contained in Section 4442 (c) of the Act.

1.8 SEVERABILITY: If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

2 ZONING RULES AND REGULATIONS

2.1 ADMINISTRATIVE OFFICER: The Planning Commission shall recommend an Administrative Officer to the legislative body. The legislative body shall appoint an Administrative Officer to administer the Zoning Regulations in accordance with Section 4448 of the Act. Said officer shall enforce the provisions of these Regulations and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these Regulations.

2.2 ZONING MAP: The location and boundaries of zoning districts are

established as shown on the map entitled "Zoning Map" and any approved reference or overlay maps for Newbury. This map is hereby made a part of these regulations. The official zoning map shall be located in the office of the town clerk. No changes shall be made to the official zoning map except in conformity with Section 4441 and 4442 of the Act.

The current Source Protection Area maps on file with the Vermont Department of Environmental Conservation for the Newbury and Wells River Village Public Water Supplies is a part of this ordinance. These maps shall be used to interpret and delineate the area and boundaries of the Reservoir Protection Overlay Districts for the Newbury and Wells River Village Public Water Supplies.

The most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted as the Overlay Flood Hazard Area Map by reference and declared to be part of these regulations. These maps shall be used to interpret and delineate the area and boundaries of the Flood Hazard Overlay District.

The current town owned lands on file with the listers office must be used to define the Public Interest Overlay District. This overlay district may be shown on the Official Zoning map for reference.

2.3 INTERPRETATION OF ZONING DISTRICT BOUNDARIES: If uncertainty exists with respect to the boundary of any Zoning District on the Zoning Map, the Planning Commission shall make the final determination of the location of such boundary.

The Administrative Officer shall determine the boundaries of any designated area of special flood hazard by scaling distances off of the Official Flood Hazard Area Map. Appeals with respect to a boundary interpretation shall be made by filing a notice with the secretary of the Board of Adjustment within fifteen days of the decision or act. For areas in doubt, and where such determination could place the structure outside the SFHA, the burden of proof shall be on the applicant, who shall seek a Letter of Map Amendment/Letter of Map Revision from FEMA, which shall constitute proof.

2.4 APPLICATION OF REGULATIONS: The application of these Regulations is subject to Sections 4411 (b), 4414 (1), 4412, 4413, and 4448 (c) of the Act.

Except as hereinafter provided, no building or structure shall be erected, moved or extended, and no land, building or structure or part thereof, shall be occupied or used unless in conformity with the regulations herein specified for the district in which it is located.

Any use not permitted by these Regulations shall be deemed prohibited.

2.5 ZONING PERMIT: No land development or change in use may be commenced within the area affected by this bylaw without a Zoning Permit being issued by the Zoning Administrator, unless the development has been specifically exempted by state or federal law, or elsewhere in this Bylaw from requiring a permit. No zoning permit may be duly issued by the Administrative Officer except in conformance with this bylaw.

2.5.1 ZONING Permit Application: Applications for zoning permits shall be made to the Zoning Administrator on forms approved by the Planning Commission. In addition to the information requested on the form, the Zoning Administrator may require additional information, surveys, site plans, or drawings, to document that the proposed development is in compliance with the bylaw. A fee schedule for applications shall be set by the Selectboard.

2.5.2 Completed Permit Application: An application for a zoning permit will not be acted upon until it is considered complete by the Zoning Administrator. For an application to be complete, it must include a signed application form, all required information, any necessary local approvals (septic permit, access permit, conditional use approval, etc) and the required application fee. A local septic permit is required and a copy of the approved state wastewater permit and accompanying plan or deferral shall serve as the local permit. When an application involves a use in the Floodplain Overlay District, an application will not be deemed complete until the Agency of Natural Resources provides comments or the 30 day comment period in 4.2 expires.

When additional information is requested from the applicant by the Zoning Administrator in order to consider the permit application complete, and such information is not presented within 60 days, the application will be deemed denied.

If denied, the Administrative Officer shall so notify the applicant in writing, stating the reasons therefore. If the Zoning Permit is approved, all activities authorized by its issuance shall be completed within two years of its date of issue, or the Zoning Permit shall become null and void and a new permit shall be required in order to continue. The Administrative Officer shall be able to extend the permit for up to one year beyond the two year period.

2.6 PENALTIES: Violations of these Regulations shall be regulated as prescribed in Sections 4451, 4452 and 1974a, Title 24.

In the case of violations in the Flood Hazard Overlay District, if the violation is not remedied within 7 days, or appealed, the Zoning Administrator shall file a copy of the notice of alleged violation in the municipal land use permit files, with the Town Clerk for filing in the land records, and shall also mail a copy to the alleged

violator, the state NFIP Coordinator and the Administrator of the National Flood Insurance Program. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The notice 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 public body 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. The seven-day warning notice shall also state that failure to cure may result in loss of flood insurance.

2.7 APPEALS

2.7.1 BOARD OF ADJUSTMENT: There is hereby established a Board of Adjustment whose members may consist of the members of the Planning Commission. Rules of procedure, nature of appeals, public notice, conditions for variance relief, and other related matters shall be in accordance with Sub-Chapter 11 of the Act, Appeals. The Town of Newbury is responsible for posting and delivering hearing notices.

For variances in the Flood Hazard Overlay District, the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense.

2.7.2 INTERESTED PERSON: Included in Subchapter 8, Section 4465, is the definition of an “interested person”. Interested persons are those persons who have the right to appeal an act or decision made by the Newbury Administrative Officer, Planning Commission, or Board of Adjustment. Interested persons must participate in a hearing in order to protect their right to appeal the decision. “Interested Person” means any one of the following:

2.7.2.1 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.

2.7.2.2 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.

2.7.2.3 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.

2.7.2.4 Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection 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.

2.7.2.5 Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state.

2.8 CONDITIONAL USES: No Zoning Permit shall be issued by the Administrative Officer for any use or structure which requires Conditional Use approval in this Regulation until the Zoning Board of Adjustment grants such approval. In considering its action, the Zoning Board of Adjustment shall make findings on general and specific standards, hold hearings and attach conditions if any, as provided for in Section 4414 (3) of the Act.

Conditional uses are those uses which must meet standards in addition to minimum lot size, dimension and set back requirements. Conditional use proposals must be warned for a hearing before the Zoning Board of Adjustment. Any use designated as a "Conditional Use" in the table relating to a particular district may be commenced, enlarged or altered in such district after receipt of all approvals and permits as required by these bylaws and then only upon the issuance of a conditional use approval by the Zoning Board of Adjustment as provided in 4449(3) of the Act after public notice and hearing. A duly approved and permitted Conditional Use of a parcel of land shall continue after the transfer of ownership, lease, or sale of that land.

Conditional use applications shall be accompanied by two sets of location and site plan maps showing current and proposed structures, current and proposed

water and wastewater facilities, land use areas; roads, driveways, traffic circulation, parking and loading spaces; landscaping plans, including site grading, landscape design and screening. Conditional use applications shall also include a narrative description of the current use of the parcel of land. Any person making application for a conditional use permit shall, as a necessary attachment to the application, provide a list of all abutting property owners. Such list must be submitted prior to the application being deemed complete and shall be used to provide direct notice to the abutting property owners prior to or at the same time public notice of an application is posted. The purpose of this requirement is to ensure adequate notice of an application to those who are most likely to be impacted by a proposed conditional use.

After its review at the duly warned hearing, the Zoning Board of Adjustment shall make a written record of its decision on the application and all requirements and/or conditions placed upon the applicant as a result of its decision.

2.8.1 General Standards of Review

As enabled by 24 V.S.A. Section 4414(3), the Zoning Board of Adjustment, after public notice and hearing, shall consider the following general standards before granting, and shall not grant, a permit unless it finds that the proposed conditional use will not adversely affect:

2.8.1.1 The Capacity of Existing or Planned Community Facilities:

2.8.1.1.1 Sufficient water must be available for the short and long term needs of the project and the project shall not result in undue impacts on the municipal water supply.

2.8.1.1.2 The project shall not cause other undue impacts on the municipality (including public, quasi-public and private providers) to provide services or facilities including but not limited to: roads, education, fire protection, emergency services, health services, recreation, waste disposal and recycling.

2.8.1.2 The Character of the Area Affected:

The proposed project, by its nature, scale, appearance or operation shall not adversely change the character of the potentially affected area as it exists or as the area is projected to exist in the municipal land use plan and the zoning bylaw in effect. Consideration shall be made with respect to the proposed development's effect on the scenic evaluation criteria in the town plan, open spaces and the scenic and historic integrity of the area affected. Measures to mitigate or restore any such adverse impacts shall be considered.

2.8.1.3 Traffic on Roads and Highways in the Vicinity:

2.8.1.3.1 The project shall not significantly reduce the safety of existing pedestrian, vehicular or recreational uses of the highways affected.

2.8.1.3.2 The proposed use shall not exhaust or exceed the physical capacity of the affected highway. In general, the project shall not substantially overburden the municipality in providing adequate highway construction and maintenance services.

2.8.1.4 Town Plan and Regulations Then in Effect:

The proposed conditional use shall comply with the Town Plan and regulations adopted at the time of submission of the application.

2.8.1.5 Utilization of Renewable Energy Resources:

A conditional use shall not excessively inhibit or restrict access to, or the use of, renewable natural resources (including, but not necessarily limited to water, solar, wind and forest resources) for energy conservation and utilization.

2.8.1.6 Appropriate Use or Development of Adjacent Property:

A conditional use shall not adversely effect the appropriate use or development of adjacent property.

2.8.2 Supplemental Considerations

In addition to its review of the general criteria, the Zoning Board of Adjustment shall address the following considerations and performance standards and may make such additional requirements.

2.8.2.1 Minimum Lot Size, Width and Building Setbacks:

Where the Zoning Board of Adjustment determines that the minimum standard applicable to the zoning district is inadequate to avoid negative impacts to neighboring uses, it may increase the minimum requirement. This can be applied to increase setback requirement, decrease development density or increase minimum frontage requirements.

2.8.2.2 Air/Water/Noise/Light Pollution and Soil Erosion:

2.8.2.2.1 The conditional use shall not adversely effect or exceed the intrinsic or inherent capability of the land to support the use.

2.8.2.2.2 The development shall not result in groundwater

or surface water pollution or cause an undue impact on air quality nor cause undue noise or light pollution or soil erosion.

2.8.2.2.3 Consideration shall be made regarding the nature of soils and topography, proximity to streams, aquifer recharge areas, groundwater table and flood plains and to storm water runoff and drainage.

2.8.2.2.4 Consideration shall also be given to the preservation, to the greatest extent possible, of the natural terrain, shorelines of lakes and streams, retention of vegetation and erosion control.

2.8.2.2.5 Consideration shall be given to the impact of the pollution source on adjacent properties.

2.8.2.2.6 Landscaping plans shall include number, size, type and location of plantings. Plans shall not allow for introduction of noxious or invasive species harmful to native vegetation types.

2.8.2.2.7 The ambient air and water quality standards shall be maintained or improved and under no circumstances shall the development be allowed to create a condition hazardous to the public health, safety or welfare.

2.8.2.2.8 Hours of operation shall be compatible with existing uses in the area.

2.8.2.4 Wildlife Habitat, Agricultural and Forest Resources:

2.8.2.4.1 The conditional use shall be designed to the greatest extent practicable to preserve critical habitats as determined by the appropriate state agency or state criteria including but not necessarily limited to deer yards, wetlands, endangered or threatened species habitats, and stream and shoreline corridors.

2.8.2.4.2 The conditional use shall, to the extent feasible, preserve the viability and productivity of agricultural resources.

2.8.2.5 Off-Street Parking Vehicular and Pedestrian Traffic:

2.8.2.5.1 Adequate off-street parking for conditional uses

must be provided where on-street parking is at or near capacity, or non-existent.

2.8.2.5.2 Adequacy of traffic circulation, parking and loading facilities and access to and egress from public highways must be designed with particular attention to safety of the public and employees.

2.8.2.5.3 Pedestrian and bicycle access shall be encouraged.

2.8.2.6 Lighting, Signs and Fences:

2.8.2.6.1 Lighting and fences shall be in keeping with the natural and/or historic beauty of both the town as a whole and the particular zoning district. The Zoning Board of Adjustment shall consider the size, materials and location.

2.8.2.6.2 Minimum setback distances from property lines may be reasonably reduced as they apply to structures normally intended to function on or in close proximity to property lines such as signs, fences or essential services.

2.8.2.6.3 In the interest of maintaining the rural character of Newbury and reducing of light pollution, lighting (except that which is primarily for security purposes) will not generally be permitted for use outside of normal business hours.

2.8.2.7 Stormwater:

2.8.2.7.1 To prevent water quality degradation and to minimize impacts on surrounding properties and town infrastructure, development shall be sited and designed to minimize stormwater runoff and erosion during all phases of development.

2.8.2.7.2 All conditional uses shall incorporate Low Impact Development (LID) stormwater management and erosion control practices (see Section 5 for definition). The Board may require the preparation and implementation of a stormwater management plan as appropriate for the setting, scale and intensity of the proposed development. Plans, if required, shall include provisions for the inspection and long-term maintenance of stormwater management and erosion control practices and be prepared by a qualified professional

that incorporates the LID approach for site design and stormwater management and the accepted management practices recommended by the state in the Vermont Stormwater Management Manual and the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites, as amended. The Zoning Board of Adjustment may, at the expense of the developer, conduct an independent review of the plans.

2.8.2.7.3 Conditional use approval may be granted by the Zoning Board of Adjustment upon finding that the proposed development will:

2.8.2.7.3.1 Conserve and Protect the Natural Hydrologic Assets and Functions of a Site. Direct development away from sensitive environmental areas, and preserve native vegetation, soils, and existing drainage courses.

2.8.2.7.3.2 Minimize Impacts of Development at All Stages. Minimize clearing and grading and limit lot disturbance. Save A and B soils. Reduce impervious surfaces, pipes, curb and gutters. Disconnect engineered drainage systems.

2.8.2.7.3.3 Create Opportunities to Retain All Runoff On Site. Stormwater shall be filtered and infiltrated into the ground by directing runoff away from impervious areas and engineered drainage systems and into areas of natural vegetation. All storms up to 1-inch must be captured and infiltrated on-site. The infiltration rate calculations of the system must be based on data collected in the field. Use green space, flatten slopes, disperse drainage, increase distance from streams, maximize sheet flow and incorporate other Integrated Management Practices (IMPs).

2.8.2.7.3.4 Use a Decentralized Stormwater Management System of Small-scale Controls that are located near the sources of runoff generation. These controls shall be designed to store, infiltrate, filter, and release runoff the way natural areas do and shall limit the post-development peak discharge rate to less than or equal to the pre-development peak discharge rate based on a 2-year, 10-year, 25-year,

and 100-year, 24-hour storm event. IMPs provide a variety of on-site opportunities to control the volume and peak runoff rates of stormwater and to filter pollutants.

2.8.2.8 Access Management

2.8.2.8.1 Access management planning shall support the following concepts:

2.8.2.8.1.1 Focus on compact settlement to reduce the need for more curb cuts, reduce the dependence on the automobile, and enable higher use of other modes of transportation i.e. pedestrian, bicycle, and transit;

2.8.2.8.1.2 Support mixed uses and appropriately sited higher density development to reduce the number and length of trips;

2.8.2.8.1.3 Concentrate development in designated areas, away from sensitive areas, and provide for interconnecting access roads between developments. Combine accesses on heavily traveled roads in order to reduce the number of curb cuts and degradation of the road's level of service;

2.8.2.8.1.4 Conduct master planning on larger tracts prior to land subdivision to ensure that access and road configurations maximize the goals referenced above.

2.8.2.8.1.2 Retain the function of Routes 5 and 302 as collector roads; development needs to retain or enhance this function. Concepts to be included in permitting decisions relating to access are:

2.8.2.8.1.2.1 Restrict or limit the number of curb cuts for all parcels to maintain safety, level of service, and functional integrity.

2.8.2.8.1.2.2 Require the consolidation, reconfiguration, or closure of existing curb cuts to improve the function and safety of these roads and adjoining town roads.

2.8.2.8.1.2.3 Strongly discourage direct access onto these roads if reasonable alternative access is afforded by a secondary road or shared driveway with abutting uses.

2.8.2.8.1.2.4 In locations where a parcel has access to these State roads and town roads, where feasible, give primary access from town roads only.

2.8.2.8.1.2.5 Provide for a minimum of 500 feet separation between I-91 exit/entrance ramps and public/private road intersections with Route 302 to maintain efficiency, safety, and the function of Route 302 and the I-91 Interchange.

2.8.2.8.1.3 Design of access roads and related facilities needs to provide for the proper configuration and operation of new or relocated drives serving that particular use or development. Factors required in planning and designing such roads or facilities include:

2.8.2.8.1.3.1 Make driveways one-way.

2.8.2.8.1.3.2 Improve turning radii.

2.8.2.8.1.3.3 Prohibit turns if necessary.

2.8.2.8.1.3.4 Extension of the throat of the access to match the anticipated use.

2.8.2.8.1.3.5 Reduce conflicts between access roads and parking areas.

2.8.2.8.1.3.6 Left turn lanes, if warranted.

2.8.2.8.1.4 Where multiple site developments or uses are being planned, project designers need to integrate the following principles in site plans:

2.8.2.8.1.4.1 Establish shared access and parking, for present and future uses.

2.8.2.8.1.4.2 Require connecting or frontage roads between parcels and prohibit direct access from Routes 5 and 302.

2.8.2.8.1.4.3 Require pedestrian walkways, reserve land or use deeded easements for future walkways along roads or interior to a parcel in concentrated areas or between buildings to ensure pedestrian safety.

2.8.2.8.1.4.4 Incorporate plans for transit stops or

similar facilities where current or future needs justify.

2.8.2.8.1.5 Roadway designs for access to or egress from Routes 5 and 302 and town highways should be a function of the traffic generated from the proposed use and anticipated volumes resulting from future uses. When designing for current projects, sufficient right of way or land should be held in reserve for anticipated future improvements. These design plans need to reflect space needs for all transportation modes, particularly pedestrians. Additionally, designs should reflect a due diligence effort by planners and engineers to retain significant historic buildings or structures, scenic resources of regional or statewide significance, including the Exit 17 interchange area.

2.8.2.8.1.6 No vacant parcel or undeveloped parcel should be approved for subdivision under any State or local permitting process, unless it is adequately demonstrated by the prospective subdivider that the full development potential or build-out has had its access(es) planned. Factors that should be considered are existing and future traffic generation, roadway site frontage, and proximity to existing driveways and highways.

2.9 PLANNING COMMISSION SITE DEVELOPMENT PLAN APPROVAL: No Zoning Permit shall be issued by the Administrative Officer for any use or structure, except for one-family and two-family dwellings, non-commercial accessory structures and agricultural use, until the Planning Commission grants Site Development Plan Approval. The Town of Newbury is responsible for posting and delivering hearing notices.

The Planning Commission shall conform to Requirements of Section 4416 and Section 4464 of the Act when acting upon any application. Section 4416 empowers the Planning Commission to impose appropriate conditions and safeguards with respect to: the adequacy of parking, traffic access, and circulation for pedestrians and vehicles; landscaping and screening; the protection of the utilization of renewable energy resources; exterior lighting; the size, location, and design of signs; and other matters specified in the bylaws. The bylaws shall specify the maps, data, and other information to be presented with applications for site plan approval and a review process pursuant to section 4464 of this title.

2.9.1 CRITERIA FOR SITE DEVELOPMENT PLAN APPROVAL: The Planning Commission shall review the site plan map and supporting data before approval, or approval with stated conditions, or disapproval, is given, and take into consideration the following objectives:

2.9.1.1 Adequate water supply and sewage disposal systems.

2.9.1.2 Freedom from flooding and ponding.

2.9.1.3 Adequate landscaping, screening and setbacks and timely collections of refuse in order to achieve maximum compatibility with and protection of adjacent property.

2.9.1.4 Adequate circulation, parking and loading facilities with particular attention to safety.

2.9.1.5 Maximum safety of vehicular circulation between the site and the street network.

2.9.1.6 Harmonious relationship between proposed uses and existing adjacent uses.

2.9.2 SUBMISSION OF SITE DEVELOPMENT PLAN MAP AND

SUPPORTING DATA: The applicant shall submit to the planning commission two sets of site plan maps and supporting data including the following information presented in drawn form and accompanied by written text:

2.9.2.1 Lot, block, and section number of the property taken from the latest tax records. Name and address of the owner of record of the property and of adjoining lands. Name and address of person or firm preparing the map. Scale of map, north point and date.

2.9.2.2 Survey of the property showing existing features, including contours, structures, large trees, streets utility easements, rights of way, land use and deed restrictions.

2.9.2.3 Site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.

2.9.2.4 Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

2.10 NON-CONFORMING USES AND NON-COMPLYING STRUCTURES: The following provisions shall apply to all buildings and uses existing prior to the effective date of these Regulations which do not conform to the requirements set forth in these Regulations; and, to all buildings and uses that in the future do not conform by reason of any subsequent amendment to these Regulations.

Any non-conforming use of structures or land except those specified below, may be continued indefinitely, but:

2.10.1 Shall not be moved, enlarged, altered, extended, reconstructed, or restored (except as provided below).

2.10.2 Shall not be changed to another non-conforming use without approval by the Board of Adjustment.

2.10.3 Shall not be re-established if such use has been discontinued for a period of one year, or has been changed to, or replaced by, a conforming use.

2.10.4 Shall not be restored for other than a conforming use after damage from any cause, unless the non-conforming use is reinstated within one year of such damage; if the restoration of such building is not completed within one year, the non-conforming use of such building shall be deemed to have been discontinued, unless such non-conforming use is carried on without interruption in the undamaged part of the building.

2.11 PRINCIPAL USES AND STRUCTURES: Only one principal use or one principal structure is allowed per lot.

3 GENERAL REGULATIONS

3.0 EQUAL TREATMENT FOR HOUSING

3.0.1 Except as provided in 24 V.S.A. 4407 (6) no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of pre-fabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

3.0.2 No zoning regulation shall have the effect of excluding from the municipality, housing to meet the need of the population as determined by 24 V.S.A. 4382(c).

3.0.3 No provision shall be construed to prevent the establishment of mobile home parks pursuant to 10 V.S.A. Chapter 153.

3.1 EXISTING SMALL LOTS: Development of Existing Small Lots: Any lot that is legally subdivided, is in individual and separate and non-affiliated ownership from surrounding properties, and is in existence on the effective date of these Regulations, but does not conform to the minimum lot size requirements, may be developed for the purposes permitted in the district in which it is located if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet, provided it receives a wastewater and potable water supply permit from the State of Vermont and

complies with the terms of these Bylaws and other local and State regulations.

3.1.1 Merger of Existing Small Lots: If an existing small lot comes under common ownership with one or more contiguous lots, the nonconforming lot shall not automatically be deemed merged with the contiguous lot and may be separately conveyed provided that the following apply:

- (i) The lots are conveyed in their preexisting, nonconforming configuration.
- (ii) On the effective date of any conveyance, each lot is developed with a water supply and wastewater disposal system in compliance with State regulations ***or, if undeveloped, has received a water supply and wastewater permit from the State of Vermont.***
- (iii) 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.

If the standards listed above, letters (i) through (iii), cannot be met the lot is deemed to be merged.

3.2 REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR PUBLIC WATERS: Land development may be permitted on lots which do not have frontage on a public road or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with Section 4418 of the Act. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 50 feet in width.

3.3 BUFFER STRIP: A strip of land not less than ten (10) feet wide on the rear, front and sides of lots used for commercial or industrial purposes shall be used and maintained only for a fence and natural planting (deciduous or coniferous trees or shrubs) where such a lot abuts the land of a residential district, a state highway or a body of water. In the case of a fence, the Planning Commission shall determine the exact size and location of such a fence on the strip.

3.4 PROTECTION OF HOME OCCUPATIONS: No regulation herein may 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 character of the residential area in which the dwelling is located. Home occupations may require various state permits, including, but not limited to, public building approval. Home occupations shall not require a local permit so long as only persons living on the premises and occupying such dwelling shall be employed and otherwise meet the requirements of a Home Occupation. All other Home Occupations shall require a local permit which shall be renewed on an annual basis, unless there have been written complaints. In which cases, the Planning Commission shall hold a public hearing and review the permit. Evidence of compliance with applicable state regulations and required state permits

shall be a condition for the issuance of and/or continuation of a local permit. Home occupations are also subject to the requirements of the district where located, including sign and parking regulations and performance standards, as well as the following:

3.4.1 No more than three persons not living on the premises and members of the immediate family occupying such dwelling shall be employed.

3.4.2 There shall be no on-site sale coupled with consumption of goods or stock in trade.

3.4.3 Any alterations of the affected buildings shall be limited to the interior of such buildings.

3.4.4 Home occupation activities shall be limited to a minor portion of the affected buildings.

3.4.5 The home occupation shall be conducted entirely within the affected buildings in a manner which does not permit off-premises evidence of the activity by the normal range of human senses.

3.4.6 No outdoor storage related to the home occupation shall be permitted.

3.4.7 No home occupation shall be operated in such a manner as to cause a nuisance by way of noise, vibration, glare, fumes, odors, electrical, electro-magnetic or radio frequency interference detectable off-premises by the normal range of human senses.

3.4.8 Parking facilities shall be off-street and restricted to suitably screened side or rear sections of the site.

3.4.9 Vehicles used in conjunction with the activity shall not be parked on the property in a way which seeks to call attention to and/or advertise the activity.

3.4.10 A home occupation activity conducted in violation of these standards and requirements shall be deemed a nuisance.

3.4.11 Notwithstanding the foregoing, permitted home occupations shall not in any event be deemed to include:

3.4.11.1 Animal clinics or hospitals

3.4.11.2 Clinics or hospitals

3.4.11.3 Mortuaries

3.4.11.4 Public or Private clubs

3.4.11.5 Repair shops or service establishments, except for the

- repair of electrical appliances, typewriters, cameras, computers or similar small items
- 3.4.11.6** Restaurants
- 3.4.11.7** Grocery or food stores
- 3.4.11.8** The retailing, wholesaling, storage or rental of heavy machinery or large items such as automobiles, tractors, trailers and boats

3.5 LOTS IN TWO ZONING DISTRICTS: 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 thirty feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

3.6 ACCESS AND SAFETY: When reviewing site plans, the Planning Commission may require changes or additions to yards, driveways, driveway entrances and exits, and landscaping, and the location and height of buildings and enclosures in order to insure safety, minimize traffic difficulties, and to safeguard adjacent properties.

3.7 TEMPORARY USES AND STRUCTURES: A temporary permit may be issued by the Administrative Officer for a period not to exceed one year for the following:

- 3.7.1** A nonconforming use incidental to a construction project.
- 3.7.2** A temporary roadside stand for the sale of agricultural products raised on the property.

The issuance of a temporary permit is conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit.

3.8 ABANDONMENT OF STRUCTURES: Building(s) which have collapsed, been destroyed, or demolished shall be considered abandoned after two years from the date of such destruction. The property owner may apply to the Development Review Board for an extension of that time provided there are extenuating circumstances outside the control of the property owner such as an insurance claim or arson investigation. An extension must be applied for prior to the second anniversary of the destruction.

3.8.1 A No-fee Zoning Permit shall be required to replace building(s) which have collapsed, been destroyed or demolished. The No-fee Zoning Permit is applicable only to replacement of the original building(s), on the original site and with the same or smaller dimensions.

3.8.2 A properly paid and issued Zoning Permit shall be required to replace any building(s) which have collapsed or been destroyed or demolished if the replacement begins after **2 (two)** years from the date of destruction. The property owner may apply to the Development Review Board within the two-

year period for an extension of the two-year limit provided there are extenuating circumstances not within the control of the property owner such as a law enforcement investigation or insurance investigation.

3.8.3 Two years after any building(s) which have collapsed, been destroyed, or demolished, the Development Review Board, after a public hearing, may require the owner of the property to remove all structural material from the site, fill to grade any remaining excavations and screen or landscape the property.

3.9 OFF-STREET PARKING REQUIREMENTS: For every building hereafter erected, altered, extended or changed in use, there shall be provided off-street parking spaces as set forth below. A parking space shall consist of 200 square feet of level, readily accessible ground. Parking spaces for any number of different uses may be combined in one parking area, but the spaces required for one use may not be assigned to another, except upon approval of the Planning Commission. The number of parking spaces required for a place of public assembly, commercial or industrial use may be reduced or increased upon finding by the planning commission that unique circumstances exist peculiar to the proposed use which would allow provision of adequate parking with fewer spaces or would require more spaces for safe parking.

3.9.1 Residential Uses: Two parking spaces for each family dwelling unit.

3.9.2 Places of Public Assembly: One parking space for every three seats, or every three people who may be present.

3.9.3 Commercial and Industrial Uses: One parking space for every business and employee vehicle, plus one parking space for every two hundred square feet of floor area.

3.9.4 Bed and Breakfast Uses: One parking space for every room available for rent, plus two parking spaces for each dwelling unit.

3.9.5 For **Elderly Housing** the required off street parking must be on-site with a minimum of 1 space per bedroom plus 1 additional space for each 5 bedrooms or less, for visitor parking and service vehicles.

3.9.6 In the **Wells River Commercial District**, parking space requirements may be waived or reduced by the Planning Commission upon confirmation in writing from the Wells River Village Trustees that adequate municipal parking is available.

3.10 EXTRACTION AND REMOVAL OF EARTH PRODUCTS

3.10.1 Permit: The owner of any parcel of land from which topsoil, rock, sand, gravel, or similar earth products are being removed or extracted for

commercial sale, or the expansion of any such existing operation or resumption of such an inactive operation, must apply for a permit.

3.10.2 Expansion: For a gravel pit, "expansion" of an existing operation shall include but not necessarily be limited to any substantial increase in the rate of gravel removed from a pit, or any use of an area which was not previously part of an existing operation. When someone other than the landowner is extracting topsoil, rock, sand, gravel, or similar earth products from a parcel of land, such party may prepare the plan, post the bond or furnish the escrow account and rehabilitate the site. In such cases however, the landowner retains the final responsibility for compliance with the conditions of the permit.

3.10.3 Approvals: The permit must be secured by Planning Commission approval of a site plan and conditional use approval from the Zoning Board of Adjustment.

3.10.4 Surety: The permit is not complete without a bond, escrow account or irrevocable letter of credit made out to the Town of Newbury, VT in an amount to be determined after review of the reclamation plan presented by the applicant, and the price shall be set by the Planning Commission. Bonding or surety shall be at a level to cover the costs of reclaiming all disturbed areas and may be adjusted periodically by the Planning Commission.

3.10.5 Multiple Operations: Parcels of property that have more than one excavation operation on it shall require separate permits for each operation.

3.10.6 Reclamation: Reclamation shall take place as portions of the property are closed. Any portion of a site that is not excavated for more than two (2) years shall be deemed closed and shall be reclaimed immediately unless the applicant applies for and receives a new permit for that section of the property. While drafting the reclamation plan, the applicant must consider reclamation of the land for agricultural use where possible. Should the Planning Commission choose to hire an independent consultant to review the reclamation plan the applicant will pay the total cost of such an independent review per Title 24 Chapter 117 §4440.

3.10.7 Site Plan Approval: The Planning Commission may issue a site plan approval, provided it finds that the following requirements are met. The applicant shall submit a site plan showing:

3.10.7.1 Existing grades in the area from which the above material is to be removed, together with finished grades that will be present after reclamation of the operation, (See 3.10.8);

3.10.7.2 The boundaries of the area to be opened and a timetable for opening and closing the pit or sections of pit;

3.10.7.3 The location and scope of all proposed development activity;

3.10.7.4 A screening plan;

3.10.7.5 An erosion and sedimentation control plan; and

3.10.7.6 A description of the proposed methods of operation including operating hours and duration of the proposed activities, types and quantities of equipment and trucks, location and method of sewage and solid waste disposal, and a transportation plan that addresses both on-and off-site trucking activities.

3.10.8 Drainage: The operator shall provide for proper drainage of the area of the operation during and after completion. No removal shall take place within fifty (50) feet of a property line, except that where the grade from a property line rises toward the lot where removal is to take place, material lying above the grade at the property line may be removed.

3.10.9 Topsoil and Cover: The applicant shall submit a reclamation plan showing that at the conclusion of the operation, or any substantial portion thereof, the whole area where removal has taken place shall be covered with not less than four (4) inches of topsoil, and seeded with a suitable cover crop. The site shall be fertilized, mulched and reseeded so as to establish a firm and permanent cover of grass or other vegetation sufficient to prevent erosion.

3.10.10 Abandonment: If an owner does not renew a permit within six (6) months after it expires, or if no topsoil, rock, sand or gravel is removed from a site which has a valid permit for a period of two (2) or more years, the site shall be considered to be abandoned. Once a site has been deemed abandoned a new permit must be applied for and granted before any operation can begin.

3.10.11 Conditional Use Approval: In considering an application for a Conditional Use Permit under this Section, the Zoning Board of Adjustment shall consider the following specific standards in addition to any other applicable standards specified elsewhere within this Regulation:

3.10.11.1 Adjoining land areas should be protected from undue adverse impacts resulting from dust, noise, or air pollution. There shall be a minimum setback of fifty (50) feet from adjoining

properties for all extraction or processing activities, except for offices and accessory automobile parking;

3.10.11.2 Within the required setback areas, the natural vegetation shall be retained and supplementary planting may be required in order to buffer impacts from the proposed operation;

3.10.11.3 An erosion and sedimentation control plan shall be submitted and shall provide that increased run-off shall not be permitted beyond the property boundaries of the proposed project area;

3.10.11.4 No operation shall be permitted which may result in the pollution of surface or groundwater through by-products of the proposed operation;

3.10.11.5 Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and waste or equipment storage area;

3.10.11.6 Proposed operations shall not create unusual or unreasonable traffic hazards, or the necessity for special public improvements or maintenance of public streets or bridges, which would place an unreasonable additional financial burden on the Town; and

3.10.11.7 Explosives may be utilized only in accordance with a plan approved under this section and only after it has been demonstrated by the applicant that the use of such materials will not have an adverse impact on adjoining properties.

3.10.12 Site Reclamation: Activities involving the extraction, exploration, or processing of earth products, by their very nature disturb the natural landscape and utility of the site. These provisions are intended to ensure that the site, at the conclusion of such activities, is reclaimed to a condition that is free of hazards to the public and is conducive to subsequent use for other activities, including agriculture.

In addition to other specific information that may be required by the Zoning Board of Adjustment, applicants for an earth products removal, extraction, exploration, or processing operation shall provide a site reclamation plan that includes the following information:

3.10.12.1 Plan: A plan of the entire site affected by the proposed operation which shall indicate:

3.10.12.1.1 Final grading and topography, including drainage patterns;

3.10.12.1.2 Location and depth of relocated topsoil; and

3.10.12.1.3 Location, type, size, and quantity of reclamation plan materials.

3.10.12.2 Timing: Sequence and timing of reclamation activities; and

3.10.12.3 Bonding/Surety: Provision for adequate bonding or surety to cover reclamation.

3.10.12.4 Standards: In considering a site reclamation plan, the Zoning Board of Adjustment shall consider the following specific standards in addition to any other applicable standards specified elsewhere within this Regulation:

3.10.12.4.1 Suitability of the site following reclamation for uses that are permissible under the applicable zoning district;

3.10.12.4.2 The landscape in the vicinity of the site;

3.10.12.4.3 No bank shall exceed a slope of one (1) foot of vertical rise over one-and-a-half (1½) feet of horizontal distance, except in ledge rock;

3.10.12.4.4 The top four (4) inches of topsoil on all disturbed areas shall be stockpiled for use in reclaiming the site and a plan for erosion control of the stockpiled materials shall be provided;

3.10.12.4.5 Implementation of reclamation activities shall be on a continuing basis commencing as soon as practical where removal or extractive activities have been completed;

3.10.12.4.6 Stormwater runoff and erosion/sedimentation following reclamation shall not exceed that which existed prior to removal or extraction.

3.10.12.5 Notification of Completion: When reclamation is complete, the owner shall notify the Planning Commission in writing. Within 45 days, the Planning Commission shall inspect the site and if all conditions have been met the bond or escrow account

shall be released.

3.10.13 Existing Sand and Gravel Operations: Existing sand and gravel, or other extractive operations, must conform with this bylaw from its effective date with respect to any enlargement of the area on which such operations are conducted.

3.10.14 Yearly Review: There will be a yearly review of removal or extraction operations conducted by the Administrative Officer to ensure that all conditions of the permit are in compliance. If there are no violations of conditions of the permit, the permit will be considered reissued for another (1) year; the Administrative Officer will prepare a report for the Planning Commission that summarizes the operation's compliance with permit conditions, and a letter reissuing the permit will be sent to the permit holder.

3.11 MINIMUM REQUIREMENTS FOR ALL DISTRICTS: The following are minimum requirements applying to all lots in the town. More stringent requirements for certain uses or districts are given in Article 4.

3.11.1 Lot: Each lot must conform to the lot area requirements for the district.

3.11.2 Frontage: Each lot must have at least 100 ft. frontage on a public road or, with the approval of the Planning Commission, access to such a road by a permanent easement or right-of-way at least 50 feet in width.

3.11.3 Set Back from Right of Way: All new buildings shall be back at least 65 feet from the center line of a right-of-way of 3 rods or less, and 40 feet from the edge of a wider right-of-way, except in Wells River Commercial District.

3.11.4 Set Back from Lot Lines: All new buildings shall be set back at least 25 feet from all side and rear lot lines except in Wells River Commercial District.

3.11.5 Site Plan Approval: Site plan approval is required for all non-residential uses, except agricultural use.

3.11.6 Set Back from Bodies of Water: All construction shall be at least 50 feet from all bodies of water and streams unless otherwise specified in these regulations. In those sections of the Wells River Commercial district served by municipal sewer, new buildings and constructions shall, subject to flood hazard zones, be set back at least 25 feet from all bodies of water and streams.

3.11.7 Sewage Disposal Facilities: All sewage disposal facilities shall be constructed to meet state standards. A local septic permit is required and a copy of the approved state wastewater permit and accompanying plan or deferral shall serve as the local permit. .

3.12 SIGNS: Except for signs necessary for public safety, the site, location and design of signs shall conform to the following regulations. District setback requirements shall not apply to signs.

3.12.1 Permitted Signs: The following signs are permitted in all districts without a permit provided that they are on the premises.

- 3.12.1.1** One professional, home occupation or bed and breakfast sign not to exceed 16 square feet.
- 3.12.1.2** One temporary real estate for sale sign not to exceed 4 square feet.
- 3.12.1.3** One directional or informational sign not to exceed 4 square feet.
- 3.12.1.4** Signs necessary for the public welfare, not to exceed 4 square feet.
- 3.12.1.5** Temporary signs advertising a special sale or event for a maximum period of 14 days.

3.12.2 Signs Requiring a Permit:

3.12.2.1 Business Signs in Newbury Commercial, Wells River Commercial, Highway Commercial, and Industrial Districts:

Each individual ground floor business may have one or two affixed signs or one affixed and either one projecting or one free-standing sign on the premises. The total size of the combined sign area shall be a function of the frontage or width of the building or portion of the building used for such business as determined by the following formula: Linear width, or frontage of the business, in feet times 0.8 feet.

Example: Store with 40 feet frontage would be allowed 32 sq. ft. of sign area (40' x .8'= 32 sq. ft.).

Notwithstanding the above, directory signs in shopping malls or industrial parks shall not exceed a sign area of 10 sq. ft. per business on such directory sign, the total area of the sign not to exceed 100 sq. ft.

3.12.2.2 Business Signs in All Other Districts: Business signs for ground floor businesses in other districts shall be limited to a sign area of 20 sq. ft. which may consist of one or two affixed signs, or one

affixed and either one projecting or one free standing sign on the premises.

3.12.2.3 Business signs for Upstairs Businesses in any District:

Businesses occupying other than ground floor premises may have one (1) affixed or one (1) projecting sign not exceeding ten (10) sq. ft. in size. In addition, other than ground floor businesses may have a ground floor directory sign, not to exceed two (2) sq. ft. in size.

3.12.2.4 Additional Business Signs: In all Districts additional business signs may be permitted upon finding by the Planning Commission:

3.12.2.4.1 that such additional signs are reasonably necessary to meet unique circumstances peculiar to the business and to the area in which it is to be located; and,

3.12.2.4.2 that the proposed sign does not adversely affect the character of the area or property values in the immediate area.

3.12.2.5 Business Signs in the Newbury Village Home-Based Business District: Business signs shall be limited to one sign with an area of no more than 16 ft² that will be affixed to the building.

3.12.3 Signs not Permitted:

3.12.3.1 Flashing, oscillating, moving and revolving signs.

3.12.3.2 Roof signs or wall signs extending above the top of the wall.

3.12.3.3 Free standing signs exceeding 20 feet in height above the finished grade.

3.12.3.4 Signs within the public right-of-way.

3.12.3.5 Signs projecting or extending from walls or fences into a public walkway or placed at a height above a walkway which will impair visibility of the walkway or impede the traveling public.

3.13 MOBILE HOMES: It shall be unlawful to park a mobile home except:

3.13.1 in a mobile home park which meets all state requirements; or,

3.13.2 where the mobile home meets all qualifications for a one family dwelling.

3.14 RECREATIONAL VEHICLES, TRAVEL TRAILERS, and TEMPORARY DWELLINGS

3.14.1 Temporary Parking of Recreational Vehicles / Travel Trailers

Recreational vehicles/travel trailers shall comply with the following regulations:

3.14.1.1 The owners of recreational vehicles/travel trailers may store them on their own property, or on rented or leased property, with the owner's approval.

3.14.1.2 One recreational vehicle/travel trailer shall be permitted with the approval of the landowner for camping purposes not to exceed 180 days per calendar year. Occasional use by up to three (3) recreational vehicles/travel trailers on the same parcel of land is allowed with landowner approval for up to twenty-one (21) consecutive days. The landowner may not receive financial compensation for allowing camping. This provision is intended to allow camping by family members and friends of a landowner and is intended to disallow the construction or operation of a camp business. Any recreational vehicles/travel trailers remaining longer than the time allowed herein shall be reviewed by the Zoning Administrator for conformity with the rest of these regulations.

3.14.1.3 A recreational vehicle/travel trailer shall not be stored within fifteen (15) feet of the side or rear lot lines, except in the WRR WRC, and NVS Zoning Districts, where a recreational vehicle/travel trailer shall not be stored within 10 feet of the side or rear lot lines.

3.14.1.4 A recreational vehicle/travel trailer shall not be used for residential occupancy for more than six (6) months per year, and shall not be hooked up to any utilities for more than six (6) months per year, whether in storage, parked for sale, or in use for camping.

3.14.1.5 Recreational vehicles/travel trailers may be parked in a sales lot for which a zoning permit has been issued.

3.15 PLANNED UNIT DEVELOPMENT (PUD): To encourage innovation in design and layout and to enable more efficient use of land, the Planning Commission may allow a greater density of land use in any section of a parcel if it is offset by a lesser concentration in any other section, or if it is offset by an appropriate reservation of common open space on the remaining land by a grant of easement or by a covenant to the municipality.

3.15.1 The approval of a subdivision plat and a site plan by the Planning Commission is required before a permit may be issued. The plans must

show the location, height and spacing of buildings, open spaces and their landscaping, streets, driveways and off-street parking spaces, and all other physical features, accompanied by a statement setting forth the nature of all proposed modifications of existing zoning regulations.

3.15.2 Permitted uses shall be those uses permitted in the district(s) within which the Planned Unit Development is proposed.

3.15.3 If the parcel has more than one owner, the application shall be filed jointly by the owners of all the property in the plan.

3.15.4 The proposed development must be designed to create an environment of stable and desirable character that is in harmony with the density and type of adjacent land uses.

3.15.5 If the application of this procedure results in lands available for park, recreation, open space, or other similar uses, the Planning Commission, as a condition of its approval, may establish conditions as to ownership, use and maintenance of these lands in order to assure the preservation of these lands for their intended use(s).

3.15.6 Areas for off-street parking adequate for the proposed occupancy must be provided.

3.15.7 The number of dwelling units shall not exceed one hundred twenty five percent of the total number which could be permitted if the land were subdivided into buildable lots in conformance with the zoning regulations for the district(s) in which the development is situated.

3.15.8 If lots or densities are to be created which will not be in conformance with the zoning regulations for the district(s) in which the development is situated, it must be demonstrated that adequate conditions and methods exist, or will be made, for the treatment of sewage and the provision of a safe supply of drinking water prior to approval of a plan by the Planning Commission.

3.15.9 In reviewing and evaluating a Planned Unit Development proposal, the Planning Commission, in addition to finding that the foregoing requirements are met, shall consider the following:

3.15.9.1 The objectives and policies set forth in the Town Plan.

3.15.9.2 The location, arrangement, and size of lots, recreation areas, school sites, and other reservation of open spaces.

- 3.15.9.3** The location, width and grade of roads and streets, and the arrangement of parking spaces.
- 3.15.9.4** The relationship and compatibility between residential and nonresidential uses.
- 3.15.9.5** The densities proposed for the entire area.
- 3.15.9.6** Other features that affect the orderly and harmonious development of the land.

An application for a planned unit development shall be reviewed by the Planning Commission in at least one public hearing, preceded by public notice, within sixty (60) days of the date of application. Hearings may be adjourned from time to time provided that the date and place of the continued hearing shall be announced at the adjourned hearing and that all hearings are within the sixty (60) day period. All hearings shall be open to the public, and the Planning Commission shall keep minutes of hearings.

Decisions on applications shall be made no later than sixty (60) days from the date of the last public hearing. Minutes of the Commission shall indicate the vote taken with regard to the application. A motion to approve an application shall indicate whether it is to be approved as submitted or with conditions: in the latter case, such conditions shall then be included as part of the final approval. A motion to deny an application shall indicate the reasons for such action.

3.16 TELECOMMUNICATION FACILITIES

3.16.1 TITLE: This section of the Zoning Regulations shall be known as the Telecommunications Facilities Bylaw of the Town of Newbury Vermont. Telecommunication facilities shall include all telecommunication service providers and associated equipment and buildings.

3.16.2 PURPOSES: The purpose of this bylaw is to protect the public health, safety and general welfare of the Town of Newbury Vermont, while accommodating the communication needs of residents and businesses.

This Bylaw shall:

1. Preserve the character and appearance of the Town of Newbury Vermont while allowing adequate telecommunications services to be developed.
2. Protect the scenic, historic, environmental, and natural resources of the Town of Newbury Vermont.
3. Provide standards and requirements for the operation, siting,

design, appearance, construction, monitoring, modification, and removal of telecommunication facilities.

4. Minimize tower and antennae proliferation by requiring the sharing of existing communication facilities, towers and sites where possible and appropriate.
5. Facilitate the provision of telecommunication services to the residences and businesses of the Town of Newbury Vermont.
6. Minimize the adverse visual effects of towers through careful design and siting.
7. Encourage the location of towers and antennae in non-residential areas and away from other sensitive areas such as areas with schools, hospitals, or childcare facilities, through performance standards and incentives.

3.16.3 AUTHORITY: Pursuant to 24 V.S.A. § 4401 et seq. the Planning Commission and Zoning Board of Adjustment (ZBA) of the Town of Newbury Vermont are authorized to review, approve, conditionally approve and deny applications for telecommunication facilities, including sketch, preliminary and final plans, and installation. Pursuant to 24 V.S.A. § 4440(d), the Planning Commission and ZBA are authorized to hire qualified persons to conduct an independent technical review of the applications and to require the applicant to pay for reasonable costs thereof.

3.16.4 CONSISTENCY WITH FEDERAL LAW: In addition to other findings required by this bylaw, the board shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. The Bylaw does not:

1. Prohibit or have the effect of prohibiting the provision of personal wireless service;
2. Does not unreasonably discriminate among providers of functionally equivalent services;
3. Does not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC regulations concerning such emissions.

3.16.5 PERMITS: Telecommunication facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in all

Newbury Zoning Districts. Accordingly, no construction, alteration, modification, (including the installation of antennae for new uses) or installation of any telecommunications facility shall commence without a Conditional Use permit first being obtained from the ZBA. In addition, site plan approval in accordance with this bylaw is required by the Planning Commission prior to the construction, alteration, modification, (including the installation of antennae for new uses) or installation of any telecommunications facility.

An applicant for site plan and Conditional Use approval a telecommunications facility permit must be a telecommunication provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the Administrative Officer at the time that an application is submitted. A permit SHALL NOT be granted for a tower to be built on speculation.

3.16.6 CONDITIONAL USE APPROVAL APPLICATION

REQUIREMENTS: In addition to information otherwise required in the Town of Newbury Vermont's Zoning Regulations and Subdivision Regulations, applicants for telecommunications facilities shall include the following supplemental information:

1. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicants registered agent and registered office.
2. The name address and phone number of the person to be contacted and authorized to act in the event of an emergency regarding the structure or safety of the facility.
3. The names and addresses of the record owners of all abutting properties.
4. The Site plan submitted to the Planning Commission for site plan approval required by this bylaw
5. A report from qualified and licensed professional engineers that:
 - A. In the case of new tower proposals, demonstrates that existing telecommunications sites and other existing structures within 30 miles of the proposed site cannot reasonably be modified to provide adequate coverage and adequate capacity to the Town of Newbury Vermont. The applicant must establish such structure cannot be reasonably modified to provide adequate coverage and capacity to the Town of Newbury in order to obtain Conditional Use approval.

- B. Demonstrates the tower's compliance with the municipality's structural standards and setbacks for towers and support structures. Such demonstration is required in order to obtain Conditional Use approval.
 - C. Describes the radio frequency radiation (RFR) for the site, whether or not the applicant is regulated by the FCC and the basis for the statement pertaining to RFR.
 - D. Provides proof that at the proposed site, the applicant will be in compliance with all FCC regulations, standards and requirements and commits to continue to maintain compliance with all FCC regulations, standards and requirements regarding radio frequency interference (RFI). The ZBA may hire independent engineers to perform evaluations of compliance with the FCC, standards and requirements on an annual basis at unannounced times.
 - E. Includes other information required by the Boards that is necessary to evaluate the request.
 - F. Includes the Engineer's stamp and registration number.
6. A report from qualified and licensed professional structural engineers that:
- A. Describes the facility location, height, design, and elevation.
 - B. Describes the tower's proposed capacity, including the number, height, and type of antennae the applicant expects the tower to accommodate.
 - C. Includes the Engineer's stamp and registration number.
7. A report from qualified and licensed professional Radio Frequency (RF) engineers that:
- A. Documents steps the applicant will take to avoid interference with any established public safety telecommunications.
 - B. Describes the output frequency, number of channels, and power output per channel for each proposed antenna.
 - C. Includes written five-year plan for use of the proposed telecommunication 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.
 - D. Describes potential changes to those existing facilities or their sites in their current state that would enable them to provide adequate coverage
 - E. Includes the Engineer's stamp and registration number.
8. The applicant shall provide a letter of intent committing the Telecommunication facility owner and his or her successors to permit shared use of the facility if the additional user agrees to

meet terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of the bylaw.

9. An applicant for a permit for a facility to be installed on an existing structure shall provide a copy of its executed contract with the owner of the existing structure to the administrative officer at the time an application is submitted.
10. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
11. A copy of the application or draft application for an ACT 250 permit, if applicable.
12. The permit application shall be signed under the pains and penalty of perjury.
13. Failure to provide any of the above information may result in the request for Conditional Use approval being denied by the ZBA.

3.16.7 SITE PLAN APPROVAL APPLICATION REQUIREMENTS: In addition to site plan approval requirements found in the Town of Newbury Zoning Regulations and Subdivision Regulations, applications for site plan approval for Telecommunication facilities shall include the following supplemental information and meet the following requirements:

1. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as the applicants' registered agent and registered office.
2. The name, address and phone number of the person to be contacted and authorized to act in the event of an emergency regarding the structure or safety of the facility.
3. The names and addresses of the record landowners of all abutting properties.
4. Location Map: copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two mile radius of the proposed tower site.
5. Vicinity map showing the entire vicinity within 2500-foot radius of the tower site, including the telecommunications facility,

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 tower site parcel and all easements or rights of way needed for access from a public way to the tower. The applicant must establish that the proposed project will not have an adverse impact on the water bodies, wetlands, historic sites and habitats for endangered species in order to obtain site plan approval.

6. Proposed Site Plans of an entire development indicating any improvements including landscaping, utility lines, guy wires, screening and roads.
7. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
8. In case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
9. Construction sequence and time schedule for completion of each phase of the entire project.
10. Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.
11. An estimated cost for complete removal of the Telecommunication facility.
12. Failure to provide any of the above requested information may result in the request for site plan approval being denied by the Planning Commission

316.8 CO-LOCATION REQUIREMENTS: An application for a new Telecommunication facility shall not be approved unless the ZBA finds as part of its Conditional Use review, that the telecommunications facilities planned for the proposed tower cannot be accommodated on existing or approved tower or structure due to one of the following reasons:

1. The proposed antennae 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.

2. The proposed antennae and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.
3. The proposed antennae and equipment, either alone or together with existing facilities, equipment or antennae would create RH or RFR in violation of federal standards or requirements.
4. 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 needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Vermont.
5. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
6. There is no existing or approved tower in the area in which coverage is sought.
7. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

3.16.9 TOWER AND ANTENNA DESIGN REQUIREMENTS: The following requirements must be met for both Conditional Use and Site Plan approval:

1. Towers, antennae and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging, and architectural treatment, except where Federal Aviation Authority (FAA), state or federal authorities have dictated color.
2. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennae, 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. Notwithstanding the above, additional height may be approved upon a finding by the Planning Commission and Zoning Board of

Adjustment that the additional height is necessary in order to provide adequate coverage in the Town of Newbury Vermont or to accomplish co-location of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

3. 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 setbacks specified in this bylaw. If the minimum setback of the underlying Zoning District is less than the height of the tower, including antennae or other vertical appurtenances, the minimum distance from the tower to any property line shall be no less than the height of the tower including antennae or other vertical appurtenances.
4. Ground mounted equipment or antennae 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 10 feet in depth and shall be a minimum of 6 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. Disturbances 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.
5. All facility sites shall be properly fenced and identified by signage that indicates presences of RFR and any other appropriate warnings required by permit conditions.
6. Tower shall be designed to allow for future rearrangement of antennae upon the tower and to accept antennae mounted at varying heights where overall permitted height allows. Towers shall be designed structurally, electrically and in respects to accommodate both the applicant's antennae and additional antennae where overall permitted height allows.
7. The Zoning Board of Adjustment, as part of Conditional Use approval may impose conditions to minimize the affect of noise from the operation of machinery or equipment upon adjacent properties.

3.16.10 AMENDMENTS TO EXISTING TELECOMMUNICATION

FACILITY PERMIT: An alteration or addition to a previously approved telecommunication facility shall require a conditional and site plan approval permit amendment when any of the following are proposed:

1. Change in the number of buildings or facilities permitted on the site.
2. Material change in technology used by the telecommunication facility.
3. Addition or change of any of the equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennae, not specified in the original application.

3.16.11 TOWER LIGHTING / SIGNAGE: Towers shall be illuminated by artificial means and shall not display such lights unless specifically required by the FAA or other federal or state authority for a particular tower because of its height. Any lighting required solely as a result of height may be subject to review by the town of the lighting requirement. Heights may be reduced to eliminate the need for lighting or another location selected.

No commercial signs or lettering shall be placed on the tower.

3.16.12 ANTENNAE MOUNTED ON STRUCTURES, ROOFS, WALLS AND EXISTING, TOWERS GOVERNED BY 3.16.9: The placement of telecommunication antennae on existing buildings, structures, roofs, or walls in conformance with section 3.16.2 of this bylaw must be approved by the Zoning Board of Adjustment for a Conditional Use permit as stated in Section 3.16.5 and the Planning Commission under Site Plan Review as stated in Section 3.16.6

3.16.13 TEMPORARY WIRELESS COMMUNICATION FACILITIES: Any telecommunication facility designed for temporary use is subject to the following:

1. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Newbury Vermont's Zoning Administrator. The Zoning Administrator shall issue a temporary permit if an applicant meets the following criteria:
 - A. Temporary telecommunications facilities are permitted for no longer than 5 days use during a special event.
 - B. The maximum height of a temporary facility is 50 feet from grade.
 - C. Temporary facilities must comply will all applicable portions of these regulations.

3.16.14 INTERFERENCE WITH PUBLIC SAFETY

TELECOMMUNICATIONS: No new telecommunications facilities shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no RF interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the municipality at least 10 calendar days in advance of such changes and allow the municipality to monitor interference levels during the testing pattern.

3.16.15 CONTINUING OBLIGATIONS:

1. Upon receiving a permit, the owner of the facility or property owner shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding RFR by filing a report with the Zoning Administrator one year from the date the permit is issued. The report shall include the basis for his or her representations and the most recent time he or she took actual readings of the RFR at the site a list of the RFR readings, their distances from the tower/transmitter, dates of the readings and the name of the person or company who took the readings.
2. The owner of the facility shall provide an irrevocable letter of credit, a bond or escrow account to be used by the Town of Newbury for removal of the facilities, should they be abandoned (See section 3.16.16). The amount required shall be 125% of the estimated cost of removal provided by the owner of the facility. The amount shall be reviewed by the Planning Commission every 5 years and adjusted as needed. The letter of credit, bond or escrow account shall be provided prior to issuance of site plan or conditional use approval for a telecommunication facility.

3.16.16 Abandoned, Unused, Obsolete, Damaged, or Dangerous Towers or Portions of Towers: Abandoned, or unused tower or portions of towers and their facilities shall be removed as follows:

1. The owner of the tower shall annually on January 15th, file a declaration with the Town of Newbury Vermont's Administrative Officer certifying the continuing safe operation of every facility installed subject to these regulation. Failure to file a declaration shall mean that the tower is no longer in use and considered abandoned. An owner who has failed to file intended use, may request the ability to continue use of the tower.
2. Abandoned or unused towers and associated facilities shall be

removed within 180 days of cessation of operations at the site unless a time extension is approved by the Planning Commission. In the event the tower is not removed within 180 days of cessation of operations at the site, the municipality may remove the tower and an associated facility. The irrevocable letter of credit, bond or escrow account provided by the owner of the facility shall be used to defray the costs of removal and any additional costs of removal shall be assessed against the property and /or tower owner.

3. Unused portions of towers shall be removed within 180 days of the time that such portion is no longer used for antennae. The replacement of portions of a tower previously removed required the issuance of a new telecommunication facility permit.

3.16.17 MAINTENANCE OF TELECOMMUNICATIONS FACILITIES

INSURANCE: The telecommunication facility owner shall maintain adequate insurance on all telecommunication facilities.

3.16.18 ENFORCEMENT & PENALTIES: Failure to comply with these bylaws or the conditions of a permit issued under these bylaws, will result in a penalty of \$50 per day for each violation. Each day in which a violation exists shall constitute a separate offense (24 V.S.A. 3028).

3.16.19 FEES: Fees for filing an application to build or alter a telecommunications facility shall be determined by the Selectboard Fees may include the reasonable costs of an independent technical assessment of the application.

3.16.20 ENFORCING AGENT: The Administrative Officer shall be the agent to enforce the provisions of this bylaw.

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

3.16.22 EFFECTIVE DATE: This Ordinance shall take effect in accordance with the voting and other procedures contained in Section 4442 (c) of the Act.

3.17 PET BREEDING, BOARDING, OR GROOMING SERVICES

Pet breeding, boarding, or grooming services shall be allowed only in areas in which the Zoning Board of Adjustment finds that the potential for noise and traffic impacts on neighboring properties is minimal. These uses shall require conditional use approval from the Zoning Board of Adjustment pursuant to Section 2.8.

3.17.1 Application Requirements: For pet boarding and breeding

facilities, a zoning application will not be deemed complete until an inspection by licensed vet or humane society official selected by the town has been performed.

3.17.1.1 The official shall submit a letter to the town with the results of the inspection.

3.17.1.2 The Zoning Board of Adjustment may place conditions on the permit pursuant to the results of the inspection.

3.17.1.3 The applicant shall be responsible for the cost of inspection.

3.17.2 Conditional Use Provisions: In addition to the other applicable provisions of this ordinance, the Zoning Board of Adjustment in granting Conditional Use Approval shall consider the following for pet breeding, boarding, or grooming services:

3.17.2.1 Noise

3.17.2.2 Fencing and or buffer area

3.17.2.3 Traffic

3.17.2.4 Landscaping/lighting

3.17.2.5 Sanitary disposal of animal waste

3.17.2.6 Topography of available land to be used

3.17.2.7 Number of animals boarded at any one time

4 ZONING DISTRICT DESCRIPTIONS AND USES

4.0.1 Uses not requiring permits: In all districts **except the Newbury Reservoir Protection Overlay District**, the following uses do not require a permit:

4.0.1.1 Agricultural and forestry use, not requiring structures

4.0.1.2 Wildlife refuge, not requiring structures

4.0.1.3 Outdoor recreation, not requiring structures

4.0.2 Uses permitted in most districts: In all districts **except the Shoreland and Industrial Districts and the Flood Hazard and Newbury Reservoir Protection Overlay Districts**, the following uses are permitted:

4.0.2.1 Agricultural building or structure

4.0.2.2 One and two family dwelling

4.0.2.3 Home occupation

4.0.2.4 Accessory use or structure

4.0.2.5 Seasonal shelter

4.0.2.6 Bed and Breakfast

4.1 PUBLIC INTEREST OVERLAY DISTRICT "PIO"

Overlay Description - Development within designated areas of this Overlay District shall be subject to the provisions of this section, as well as any applicable requirements of the underlying zoning district. Where this overlay district imposes more restrictive standards on the construction or use of structures or land, the standards of this overlay district shall apply.

Description - Includes town owned land. Please refer to the listers office for a complete inventory of town owned land.

Purpose - To provide that areas held in public ownership be used for the public interest and benefit.

4.1.1 Permitted Uses: The permitted uses for land in the Public Interest District shall be determined on a case by case basis by the Planning Commission and require the approval of the legislative body.

4.2 FLOOD HAZARD OVERLAY "FHO"

Overlay Description - Development within designated areas of this Overlay District shall be subject to the provisions of this section, as well as any applicable requirements of the underlying zoning district. Where this overlay district imposes more restrictive standards on the construction or use of structures or land, the standards of this overlay district shall apply.

Official Flood Hazard Boundary Map - These regulations shall apply to all lands in the Town of Newbury, Vermont, within identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations. The latest maps produced by FEMA and entitled Flood Insurance Rate Map (FIRM), relating to Town of Newbury, Village of Newbury or Village of Wells River, Vermont and any revisions thereto are hereby adopted as the Official Flood Hazard Overlay Map, and is declared to be part of these Bylaws. Copies of the map are on file with the Town Clerk and are available for inspection.

Purpose - It is the purpose of this section to:

1. 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
2. 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

3. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
4. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

Records - The Administrative Officer shall maintain a record of:

1. All permits issued for development in areas of special flood hazard;
2. The elevation, in relation to the mean sea level of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures, within the designated special flood hazard areas; and
3. The elevation, in relation to mean sea level, to which such structures have been flood proofed.
4. All flood proofing certifications required.
5. All variance actions, including justification for their issuance.

State Coordination - All applications for proposed development in the FH Overlay shall be sent by the Zoning Administrator to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section for comment in accordance with 24 V.S.A. § 4424. Agency. For any permit application involving the alteration or relocation of a watercourse, the Zoning Administrator shall notify adjacent communities, the Administrator of the National Flood Insurance Program, and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section. A permit application will only be considered complete and ready for action following the receipt of comments or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

Warning of Disclaimer of Liability - These regulations do not imply that land outside the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Newbury or any town official or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made hereunder.

4.2.1 Floodway

New buildings, fill, structures, or other encroachments or obstructions to flood flow are PROHIBITED in the floodway, unless a registered professional engineer certifies that, based on his hydraulic analysis, the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

4.2.2 Floodway Fringe

(special flood hazard areas outside of the floodway)

- 4.2.2.1 All Development** - All development shall be reasonably safe from flooding and:

- i. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
- ii. constructed with materials resistant to flood damage,
- iii. constructed by methods and practices that minimize flood damage, and
- iv. 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.
- v. Proposed development shall be permitted by the Administrative Officer conditioned on the receipt of all necessary permits from those government agencies from which approval is required by Federal, State or Municipal law.

4.1.2.2 Residential Development:

- i. New construction and existing buildings to be substantially improved that are located in Zones A, A1-30 and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
- ii. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - 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 at least 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.
 - 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.

4.2.2.3 Non-Residential Development:

- i. New construction located in Zones A, A1-30, and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
- ii. Existing buildings to be substantially improved located in Zones A, A1-30, AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or together with

attendant utility and sanitary facilities be designed so that below at least one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- iii. A permit for a building proposed to be floodproofed 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.

4.2.2.4 Subdivisions:

- i. 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.
- ii. Subdivisions (including manufactured home parks) shall be designed to assure:
 - such proposals minimize flood damage within the flood-prone area,
 - public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage,
 - adequate drainage is provided to reduce exposure to flood hazards, and
 - any access roads to habitable structures or critical facilities shall be at least one foot above base flood elevations and able to withstand a 100-year event without failure or overtopping.

4.2.2.5 Enclosed Areas Below the Lowest Floor:

- i. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage and such a condition shall clearly be stated in any permits.
- ii. 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.
- iii. 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.

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

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

4.2.2.7 Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:

- i. shall not be used for human habitation,
- ii. shall be designed to have low flood damage potential,
- iii. shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
- iv. shall be firmly anchored to prevent flotation, and
- v. shall have service facilities such as electrical and heating equipment elevated or floodproofed.

4.2.2.8 Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

4.2.2.9 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.

4.1.2.10 Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

4.2.3 DEFINITIONS

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

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

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

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD: means (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (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): means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water

surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

FLOODPLAIN OR FLOOD-PRONE AREA: means any land area susceptible to being inundated by water from any source (see definition of “flood”).

FLOOD PROOFING: means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

LOWEST FLOOR: means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

MANUFACTURED HOME: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

MANUFACTURED HOME PARK OR SUBDIVISION: means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION: means a

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

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

SPECIAL FLOOD HAZARD AREA: is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). 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, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

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: means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance

purposes, means: (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: means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: means any reconstruction, rehabilitation, addition, or other improvement of a structure, 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”.

VIOLATION: means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

4.2.4 PERMITTED USES: NONE

4.2.5 Conditional Uses: NOTWITHSTANDING THE FOREGOING, ONLY THE FOLLOWING USES SHALL BE PERMITTED UPON ISSUANCE OF A CONDITIONAL USE PERMIT BY THE BOARD OF ADJUSTMENT:

4.2.5.1 Agriculture and forestry

4.2.5.2 Outdoor recreation, not requiring structures

4.2.5.3 Wildlife refuge

4.2.5.4 Quarrying and mineral extraction

4.2.6 Minimum requirement: Planning Commission approval of site development plan showing contours at 5 foot intervals and proposed elevations of the lowest floor level of all buildings, structures and facilities.

4.3 NEWBURY RESERVOIR PROTECTION OVERLAY DISTRICT "NRPO"

Overlay Description - Development within designated areas of this Overlay District shall be subject to the provisions of this section, as well as any applicable requirements of the underlying zoning district. Where this overlay district imposes more restrictive standards on the construction or use of structures or land, the standards of this overlay district shall apply.

Description - Includes all publicly or privately held land within the aquifer recharge area for the Newbury Village Reservoir and infiltration systems as mapped and defined by the current Source Protection Area on file with the Vermont Department of Environmental Conservation.

Purpose: - The purpose of this district is to maintain a quality source of public water to the Village of Newbury. In addition, it is the purpose of the District to accommodate development and use of such land and waters in ways as not to diminish the value and availability of water for public use and to protect the public investment in the water system.

4.3.1 Allowable Uses [No Permit Required] A use of land for low impact recreational purposes to include hiking, cross-country skiing, wildlife sanctuaries, hunting and similar activities.

4.3.2 Conditional Uses: The following uses are permitted after issuance of a conditional use permit by the Zoning Board of Adjustment.

- 4.3.2.1 Forestry
- 4.3.2.2 Highway Construction or improvements
- 4.3.2.3 Camping
- 4.3.2.4 Snowmobiling

Off road use of motorized vehicles other than snowmobiles is specifically prohibited unless special permission to apply for a conditional use permit is received in writing from the Newbury Village Trustees.

4.3.3 Minimum Requirements

- 4.15.3.1 Lot Area: 25 acres
- 4.15.3.2 Lot Frontage: 100 feet
- 4.15.3.3 Lot Depth: 150 feet

SPECIFIC STANDARDS – NEWBURY RESERVOIR PROTECTION DISTRICT

(A) Notwithstanding any conflicting provisions of these bylaws, no land development shall be permitted in the Reservoir Protection District that involves the use or application of pesticides, or that involves or typically requires the installation, maintenance, or operation of a sewer disposal system. In the interest of maintaining acceptable water quality standards for public water supply, no new system shall be permitted within the district. Renovation or improvements to existing systems shall be permitted subject to review and approval by the Zoning Board of Adjustment, the Newbury Board of Health and other involved agencies.

(B) Forestry includes the cultivation and harvesting of timber. Prior to removal of timber or logging within the district, landowners shall first apply for and receive a conditional use permit. Prior to granting its approval, the Board of Adjustment shall find that:

1. A qualified forester has prepared a management plan for the operation that utilizes acceptable management practices; and,
2. The operation will not result in undue soil erosion or pollution to the waters feeding the reservoirs, infiltration systems, wells or other parts of the public water system serving Newbury Village.

Occasional harvesting of trees for firewood for the owners' personal use, shall be exempted from these provisions.

(C) Construction and improvements to the roads within the district shall be permitted subject to a finding by the Zoning Board of Adjustment that the construction and use of the roadway will not result in undue soil erosion or water pollution. Routine maintenance by the Town Highway Department of the Moore Hill Road is permitted without a finding by the Board of Adjustment.

(D) Both underground and above ground storage tanks containing petroleum products, hazardous substances, and other sources of ground and surface water contamination shall be prohibited. In addition, disposal facilities for hazardous wastes shall be prohibited in this district.

(E) The Zoning Board of Adjustment in addition to any other notice requirements, shall provide due notice to the Village of Newbury Water Commission and Village Trustees

4.4 WELLS RIVER RESERVOIR PROTECTION OVERLAY DISTRICT "WRRPO"

Overlay Description - Development within designated areas of this Overlay District shall be subject to the provisions of this section, as well as any applicable requirements of the underlying zoning district. Where this overlay district imposes more restrictive standards on the construction or use of structures or land, the standards of this overlay district shall apply.

Description - Includes all publicly or privately held land within the aquifer recharge area for the Wells River Village Reservoir and infiltration systems as mapped and defined by the current Source Protection Area on file with the Vermont Department of Environmental Conservation.

Purpose - The purpose of this district is to maintain a quality source of public water to the Village of Wells River. In addition, it is the purpose of the District to accommodate development and use of such land and waters in ways as not to diminish the value and availability of water for public use and to protect the public investment in the water system.

Uses and Requirements - The requirements of the base district shall apply.

SPECIFIC STANDARDS – WELLS RIVER RESERVOIR PROTECTION DISTRICT

(A) Notwithstanding any conflicting provisions of these bylaws, no land development shall be permitted in the Wells River Reservoir Protection District that involves the use or application of pesticides, or that involves or typically requires the installation, maintenance, or operation of a sewer disposal system. In the interest of maintaining acceptable water quality standards for public water supply, no new system shall be permitted within the district. Renovation or improvements to existing systems shall be permitted subject to review and approval by the Zoning Board of Adjustment, the Newbury Board of Health and other involved agencies.

(B) Construction and improvements to the roads within the district shall be permitted subject to a finding by the Zoning Board of Adjustment that the construction and use of the roadway will not result in undue soil erosion or water pollution. Routine maintenance by the Village Highway Department of existing roads is permitted without a finding by the Board of Adjustment.

(C) Both underground and above ground storage tanks containing petroleum products, hazardous substances, and other sources of ground and surface water contamination shall be prohibited. In addition, disposal facilities for hazardous wastes shall be prohibited in this district.

(D) The Zoning Board of Adjustment in addition to any other notice requirements, shall provide due notice to the Village of Wells River Water Commission and Village Trustees

4.5 SHORE LAND "SH2"

Description – Includes all land within 750 feet from the normal mean water mark of Round Pond, Harriman Pond, Hall's Lake, Long Pond and Tenney Pond (Hanson Pond).

Purpose - To maintain high quality of water for recreational uses; and to require high standards for permitted development in order to protect the pristine character of the various lakes and ponds and the scenic and recreational assets of the shore land.

4.5.1 Permitted Uses: In the Shore Land District, "SH2", the following uses are permitted:

- 4.5.1.1 Hiking and riding trail
- 4.5.1.2 Non-commercial park
- 4.5.1.3 Swimming area
- 4.5.1.4 Boat launching site
- 4.5.1.5 Nature reserve
- 4.5.1.6 Deck
- 4.5.1.7 Gazebo

4.5.2 Additional Permitted Uses: In the Shoreland District, SH2, the following uses are permitted in areas which are more than 250 feet from the normal mean water level or beyond the centerline of the Town Road within the SH2 district (whichever is greater).

- 4.5.2.1 Agricultural building or structure
- 4.5.2.2 One or Two family dwelling
- 4.5.2.3 Home Occupation
- 4.5.2.4 Accessory Use or structure
- 4.5.2.5 Seasonal Shelter

4.5.3 Conditional Use Provisions: In addition to the other applicable provisions of this ordinance, the Board of Adjustment in granting Conditional Use Approval shall consider the following:

- 4.5.3.1 the erosion potential of the site based upon the degree and direction of slope, soil type, and type of vegetative cover;
- 4.5.3.2 the amount and type of waste water to be generated and the adequacy of the proposed disposal systems to prevent water pollution;
- 4.5.3.3 existing and proposed topographic features and drainage patterns.

4.5.4 Conditional Uses: The following uses within 250 feet of the normal mean water level or the centerline of the Town road within the SH2 district (which ever is greater) are permitted upon the issuance of a Conditional Use Permit by the Board of Adjustment:

- 4.5.4.1 Agricultural building or structure
- 4.5.4.2 One and two family dwelling
- 4.5.4.3 Home Occupation

- 4.5.4.4** Accessory use or structure
- 4.5.4.5** Seasonal Shelter
- 4.5.4.6** Bed and Breakfast
- 4.5.4.7** Boat dock or boat house
- 4.5.4.8** Quarrying and mineral extraction
- 4.5.4.9** Pet Boarding, Breeding and Grooming

4.5.4 Minimum requirements:

- 4.5.4.1 Lot area:** 2 acres
- 4.5.4.2** No lot abutting the shoreline shall have shore land frontage of less than 50 feet as measured at the mean water mark.
- 4.5.4.3** The filling in or excavation of wet-lands as defined by the Natural Resources Conservation Service is prohibited.
- 4.5.4.4** The storage or processing of poisonous, toxic, or other pollutants or substances, other than for household purposes, is prohibited.
- 4.5.4.5** No building or structure, as defined by these Regulations, shall be constructed to exceed a height of 30 feet in elevation, or to obstruct the lake view of neighboring properties.
- 4.5.4.6** For the purposes of maintaining the natural or scenic qualities of the shore land, no dwelling shall be located within 100 feet of the shoreline. Decks, gazebos or similar structures shall not be located within 15 feet of the shoreline.
- 4.5.4.7** No dock, boat landing, or boathouse shall be situated in such a manner so as to materially interfere with the safe and efficient operation of boats or other craft beyond 50 feet from the shore line. There shall be no waterside setback requirement for these structures.
- 4.5.4.8** The Board of Adjustment in its review of applications shall give careful consideration to the placement of buildings or structures in a manner which maximizes the maintenance of scenic or natural features through use of screening of manmade objects and the placement of structures in places on the lot which do not adversely modify the views from other areas including the water body itself.

4.6 CONSERVATION DISTRICT "CD10"

Description - All land not specifically included in any other district.

Purpose – To limit development in areas not well served by roads and other town services.

4.6.1 Permitted Uses: In the Conservation District "**CD10**" the only permitted uses are those listed in 4.0.1 and 4.0.2

4.6.2 Conditional Uses: The following uses are permitted upon the issuance of a Conditional Use Permit by the Board of Adjustment:

4.6.2.1 Public and private outdoor recreation use
or structure

4.6.2.2 Quarrying and mineral extraction

4.6.2.3 Pet Boarding, Breeding and Grooming

4.6.3 Minimum Requirements

4.6.3.1 Lot Area: 10 acres

4.6.3.2 Lot Frontage: 200 feet

4.6.3.3 Lot depth: 200 feet

4.7 RURAL RESIDENTIAL 5 " RR5"

Description –

Includes all land that lies within 1000 feet from the centerline of North Rd (TH6) from the intersection with Newbury Center Rd (TH45) to the intersection with Tucker Mountain Rd (TH58) except for the RR1 area to the east of the centerline of the southern end of Halls Lake Rd (TH49) and the RR2 area around West Newbury.

Includes all land that lies within 1000 feet from the centerline of Tucker Mountain Rd (TH58) from the intersection with Halls Lake Rd (TH49) to the intersection with Urquhart Rd (TH44).

Purpose - To accomplish a density of rural development appropriate to the physical limitations imposed by the land; thereby minimizing potential health problems and municipal costs for the provision of public services; and to do so while maintaining residential densities that are compatible with the existing rural character of farms, open fields, and woodlands.

4.7.1 Permitted Uses: In the Rural Residential 5 District, "**RR5**", uses listed in 4.0.1 and 4.0.2 are permitted. The following uses are also permitted:

4.7.1.1 Professional residence - office

4.7.1.2 School

4.7.1.3 Religious institution

4.7.2 Conditional Uses: The following uses are permitted upon the issuance of a Conditional Use Permit by the Board of Adjustment:

- 4.7.2.1** Public or private outdoor recreation
- 4.7.2.2** Planned Unit Development
- 4.7.2.3** Campground
- 4.7.2.4** Quarrying and mineral extraction
- 4.7.2.5** Pet Boarding, Breeding and Grooming

4.7.3 Minimum requirements:

- 4.7.3.1 Lot area:** 5 acres
- 4.7.3.2 Lot frontage:** 200 feet
- 4.7.3.3 Lot depth:** 150 feet

4.8 RURAL RESIDENTIAL 2 "RR2"

Description –

Includes all land lying between Snake Road (TH1) and Doe Lane (TH73) and Doe Hill Road (TH84) and also including all land extending 1000 feet south of Doe Lane (TH73) lying between Doe Hill Road (TH84) and a line running due south from the intersection with Doe Lane (TH73) and Snake Road (TH1).

Includes all land that lies within 1000 feet from the centerline of Wallace Hill Road (TH28), starting at the WRC area 0.4 miles north of the intersection with Ricker Road (TH33) and continuing south 2.5 miles on Wallace Hill Road (TH28).

Includes all land that lies within 1000 feet from the centerline of Jefferson Hill Rd (TH21) starting from the intersection with Scotch Hollow Rd (TH14) on the southern side and Bailey Pond Rd (TH12) on the northern side to the intersection with Swamp Rd (TH2) stopping at Bailey Pond Rd (TH12) on the northeastern corner.

Includes all land that lies within 1000 feet from the centerline of Snake Rd (TH1) starting at the intersection with Snake Rd (TH1) and Moore Hill Rd (TH56) and heading west to the intersection with Halls Lake Rd (TH49). Includes all land that lies within 1000 feet from the centerline of Tyler Farm Road (TH1) from the northern end to the intersection with Tyler Farm Road (TH1) and Cole Rd (TH72) except for the RR5 area along Tucker Mountain Rd (TH58) and the RR1 area along Tyler Farm Rd (TH1). Includes all land that lies within 1000 feet from the centerline of Rogers Hill Rd (TH67,70) and Upper Rogers Rd (TH67).

Purpose - To accomplish a density of rural development appropriate to the physical limitations imposed by the land; thereby minimizing potential health problems and municipal costs for the provision of public services; and to do so while maintaining

residential densities that are compatible with the existing rural character of farms, open fields, and woodlands.

4.8.1 Permitted Uses: In Rural Residential 2 Districts, "RR2", The uses listed in 4.0.1 and 4.0.2 are permitted, the following additional uses are also permitted:

- 4.8.1.1 Professional residence - office
- 4.8.1.2 School
- 4.8.1.3 Religious institution

4.8.2 Conditional Uses: The following uses are permitted upon the issuance of a Conditional Use Permit by the Board of Adjustment:

- 4.8.2.1 Public or private outdoor recreation
- 4.8.2.2 Planned Unit Development
- 4.8.2.3 Campground
- 4.8.2.4 Quarrying and mineral extraction
- 4.8.2.5 Pet Boarding, Breeding and Grooming

4.8.3 Minimum requirements:

- 4.8.3.1 Lot area: 2 acres
- 4.8.3.2 Lot frontage: 150 feet
- 4.8.3.3 Lot depth: 150 feet

4.9 RURAL RESIDENTIAL DISTRICT "RR1"

Description –

Includes all land that lies within 1000 feet from the centerline of US 5 as well as mapped areas to the west of Newbury Village north and south of Scotch Hollow (TH4) and Moore Hill Roads (TH55) and to the east of US 5 to the Connecticut River except for the NVS, NVHB, SH2, WRC, and WRR areas along portions of US 5.

Includes all land that lies around the western end of Golf Links Road (TH19) and Bolcum Rd (TH86) except for the WRC, I, and HC areas.

Includes all land that lies within 1000 feet from the centerline of Ogoman Rd (TH71) and Tyler Farm Rd (TH1) from the town line to the intersection with Cole Rd (TH72).

Includes all land that lies within 1000 feet from the centerline of Snake Rd (TH1) from the intersection with US 5 to the intersection with Moore Hill Rd (TH56) except for the RR2 lands around Doe Ln (TH73).

Includes all land that lies within 1000 feet from the centerline of Halls Lake Rd (TH49) except for the SH2 area, the RR5 area 1000' from the centerline of North Rd (TH6), up

to the centerline west of Halls Lake Rd (TH49) starting south of Halls Lake 0.1 mile from Sanderlin Drive, and the RR2 area along Snake Rd (TH1).

Includes all land that lies within 1000 feet from the centerline of Wallace Hill Rd (TH28) from the intersection with Scotch Hollow Rd (TH4) to a point 1.1 miles north along Wallace Hill Road (TH28) except for the Harriman Pond SH2 area.

Includes all land that lies within 1000 feet from the centerline of Wallace Hill Rd (TH28) from the intersection of Ricker Rd (TH33) to the intersection with US 302 except for the WRC area along US 302.

Includes all land that lies within 1000 feet from the centerline of Scotch Hollow Rd (TH14) except for the RR5 area along North Rd (TH6), the RR2 area along Jefferson Hill Rd (TH14), and the HC area along US 302 at the northern end

Includes all land that lies within 1000 feet from the centerline of Newbury Center Rd (TH6) and Corey Hill Rd (TH38) from the intersection with Scotch Hollow Rd (TH45) to the intersection with John's Way except for the RR5 area along North Rd (TH6).

Includes all land that lies within 1000 feet from the centerline of Leighton Hill Rd (TH7) except for the HC and WRC areas at the northern end.

Includes all land that lies within 1000 feet from the centerline of Fulton Rd (TH61,63), Bowen Rd (TH41), and Fuller Rd (TH40) except for the SH2 areas around Round and Long Ponds and RR5 area along North Rd (TH6) at the east end.

Includes all land that lies within 1000 feet from the centerline Topsham Rd (TH35), and Swamp Rd (TH2) except for the RR2 area along Jefferson Hill Rd (TH21) at the northern end.

Purpose - To accomplish a density of rural development appropriate to the physical limitations imposed by the land; thereby minimizing potential health problems and municipal costs for the provision of public services; and to do so while maintaining residential densities that are compatible with the existing rural character of farms, open fields, and woodlands.

4.9.1 Permitted Uses: In Rural Residential Districts "RR1" the uses listed in 4.0.1 and 4.0.2 are permitted, the following uses are also permitted:

4.9.1.1 Professional residence - office

4.9.1.2 School

4.9.1.3 Religious institution

4.9.2 Conditional Uses: The following uses are permitted after issuance of a Conditional Use Permit by the Board of Adjustment:

4.9.2.1 Public or private outdoor recreation

4.9.2.2 Planned Unit Development

4.9.2.3 Mobile Home Park

4.9.2.4 Campground

4.9.2.5 Quarrying and mineral extraction

4.9.2.6 Pet Boarding, Breeding and Grooming

4.9.3 Minimum Requirements:

4.9.3.1 Lot Area: 1 acre

4.9.3.2 Lot Frontage: 100 feet

4.9.3.3 Lot Depth: 100 feet

4.10 WELLS RIVER RESIDENTIAL "WRR"

Description - Includes all land in Wells River Village except land in the Wells River Commercial and the Industrial Districts.

Purpose - To accomplish a density of rural development appropriate to the physical limitations imposed by the land; thereby minimizing potential health problems and municipal costs for the provision of public services; and to do so while maintaining residential densities that are compatible with the existing rural character of farms, open fields, and woodlands.

4.10.1 Permitted Uses: In those sections of Wells River Village designated Wells River Residential "WRR" the uses listed in 4.0.1 and 4.0.2 are permitted, the following uses shall also be permitted:

4.10.1.1 Professional residence - office

4.10.1.2 School

4.10.1.3 Religious institution

4.10.2 Conditional Uses: The following uses are permitted after an issuance of a Conditional Use Permit by the Board of Adjustment:

4.10.2.1 Public or private outdoor recreation

4.10.2.2 Planned Unit Development

4.10.2.3 Quarrying and mineral extraction

4.10.2.4 Pet Boarding, Breeding and Grooming

4.10.3 Minimum Requirements, Properties with On-site Sewer and Water:

4.10.3.1 Lot area: 1 acre

4.10.3.2 Lot frontage: 100 feet

4.10.3.3 Lot depth: 100 feet

4.10.4 Minimum Requirements, Properties served by Off-Site Sewer and Water Systems:

4.10.4.1 Lot area: 1/4 acre, 1/2 acre for two family dwelling.

4.10.4.2 Lot Frontage: 100 feet

4.10.4.3 Lot depth: 75 feet

4.11 NEWBURY VILLAGE SETTLEMENT "NVS"

Description - Includes that land within Newbury Village that is bordered by a line which is located 250 feet from the eastern and western sides of U.S. Route 5 terminating at the northern end of the village where US 5 starts to follow the Connecticut River. This District also includes that land which is bordered by Chapel Street (TH4) on the south, Main St (US5) on the east, Pine Street (TH4) on the north and the intersection of Pine and Chapel Streets on the west.

Purpose - To encourage development in Newbury Village of small businesses and services in keeping with the historic pattern of settlement, thus reducing the burden on the town to provide for services such as highways and schools, reducing the costs of scattered development.

4.11.1 Permitted Uses: In those sections of Newbury Village designated Newbury Village Settlement "NVS", the uses listed in 4.0.1 and 4.0.2 are permitted, the following uses shall also be permitted:

- 4.11.1.1 Professional residence - office
- 4.11.1.2 School
- 4.11.1.3 Religious institution
- 4.11.1.4 Private club
- 4.11.1.5 Multi-Unit Dwelling of less than 5 units
- 4.11.1.6 Retail Store
- 4.11.1.7 Personal Service business
- 4.11.1.8 Office Building
- 4.11.1.9 Clinic
- 4.11.1.10 Elderly Housing
- 4.11.1.11 Bank

4.11.2 Conditional Uses: The following uses are permitted after issuance of a Conditional Use Permit by the Board of Adjustment:

- 4.11.2.1 Planned Unit Development
- 4.11.2.2 Restaurant
- 4.11.2.3 Multiple Uses

- 4.11.2.4 Multi-Unit Dwelling of 5 or more units
- 4.11.2.5 Animal Shelter, Veterinary Clinic,
- 4.11.2.6 Quarrying and mineral extraction
- 4.11.2.7 Pet Boarding, Breeding and Grooming
- 4.11.2.8 Other use which the Planning Commission finds is of the same general character as those permitted, which will not be detrimental to other uses within the district or detrimental to adjoining land uses, and which is not specifically excluded by the ordinance.

4.11.3 Minimum requirements:

4.11.3.1 Lot Area

One family dwelling,	1 acre
Two family dwelling,	1 acre
Three or more unit dwelling or non-residential:	2 acres
Elderly Housing,	1 acre minimum, 5000 sq. ft. per unit.

4.11.3.2 Lot Frontage: 200 ft.

4.11.3.3 Lot Depth: 200 ft.

4.11.3.4 Set Back: New non-residential buildings on lots abutting residential lots shall be set back at least 50 feet from lot lines of residential lots.

4.12 WELLS RIVER COMMERCIAL "WRC"

Description - Includes all lands within 1000 feet either side of U. S. Routes 5 and 302 in Wells River Village, an area of land south of U. S. Route 302, extending 1000 feet from the centerline of Route 302 between the Wells River Village boundary line on the east and Leighton Hill Road on the west, an area of land encompassing the corner of town around Schaeffer Hill beyond the 1000 foot area along US 5, and the Blue Mountain Union School parcel.

Purpose - To allow intensive development in Wells River Village thereby continuing to enhance its function as a social and visual center, promoting the historic pattern of settlement; thus reducing the burden on the town to provide for services such as highways and schools, and eliminating the costs of scattered development. The area shall be maintained and developed to provide for residential development of all types and commercial establishment serving the town and region.

4.12.1 Permitted Uses: In those sections of Wells River Village designated Wells River Commercial "WRC" the uses listed in 4.0.1 and 4.0.2 are permitted, the following uses shall also be permitted:

- 4.12.1.1 Professional residence - office
- 4.12.1.2 School
- 4.12.1.3 Religious institution
- 4.12.1.4 Private Club
- 4.12.1.5 Multi-Unit Dwelling of less than 5 units
- 4.12.1.6 Retail Store
- 4.10.1.7 Bank
- 4.12.1.8 Personal Service Business
- 4.12.1.9 Office Building
- 4.12.1.10 Clinic
- 4.12.1.11 Elderly Housing

4.12.2 Conditional Uses: The following uses are permitted after an issuance of a Conditional Use Permit by the Board of Adjustment:

- 4.12.2.1 Restaurant
- 4.12.2.2 Multiple Uses
- 4.12.2.3 Gasoline Service Station
- 4.12.2.4 Multi-Unit Dwelling of 5 or more units
- 4.12.2.5 Quarrying and mineral extraction
- 4.12.2.6 Pet Boarding, Breeding and Grooming
- 4.12.2.7 Other use which the Planning Commission finds is of the same general character as those permitted, which will not be detrimental to other uses within the district or detrimental to adjoining land uses, and which is not specifically excluded by the ordinance.

4.12.3 Minimum requirements, Properties with On-Site Sewer and Water:

4.12.3.1 Residential

Lot Area:

One family dwelling	1 acre
Two family dwelling	1 acre
Elderly Housing	1 acre, 5,000sf per dwelling
MultiUnit Dwelling:	1 acre, 15,000sfper dwelling

Setbacks: At least 25 feet from side and rear lot lines, 65 feet from the center line of a right-of-way of 3 rods or less, and 40 feet from edge of a wider right-of-way. New non-residential buildings on lots abutting residential lots shall be set back at least 50 feet from lot lines of residential lots.

4.12.3.2 Non-residential

Lot Area: 2 acres
Lot Frontage: 200 ft.
Lot Depth: 200 ft.

Setbacks: At least 25 feet from side and rear lotlines, 65 feet from the center line of a right-of-way of 3 rods or less, and 40 feet from edge of a wider right-of-way. New non-residential buildings on lots abutting residential lots shall be set back at least 50 feet from lot lines of residential lots.

4.12.4 Minimum Requirements, Properties served by Off-Site Sewer and Water Systems: Properties served by the Municipal Sewer System shall be subject to the following special minimum requirements.

Lot Area: 1/4 acre
Elderly Housing: 5,000 sf per dwelling unit
Multi-Unit : 15,000 sf per dwelling unit
Lot Frontage: 100 feet
Lot Depth: 75 feet

Setbacks: At least 15 feet from side and rear lot lines, 65 feet from the center line of a right-of-way of 3 rods or less, and 15 feet from edge of a wider right-of-way. New non-residential buildings on lots abutting residential lots shall be set back at least 50 feet from lot lines of residential lots. Set back requirements may be reduced to conform with existing structures upon meeting appropriate conditions which include, but are not limited to, fire safety.

4.13 HIGHWAY COMMERCIAL "HC"

Description - Includes all land that lies on the northern side of U.S. 302 between the center line and the Wells River from the Ryegate town line to the Boltonville Road (TH82). It also includes an area to the north of US 302 that includes the parcels to the south and west of the Blue Mountain Union School parcel except for the I and WRC areas. It also includes an area within 1000 feet from the center line of the southerly side of U.S. 302 extending from the intersection of Leighton Hill Road (TH7) with US 302 to the Ryegate Town Line.

Purpose - To provide for a variety of highway oriented uses and services adjacent to Interstate 91 and along portions of Route 302 in a manner so as to minimize traffic congestion and provide off-street parking.

4.13.1 Permitted Uses: In Highway Commercial Districts, "HC", the uses listed in 4.0.1 and 4.0.2 are permitted, the following uses are also permitted.

- 4.13.1.1 Office Building
- 4.13.1.2 Private Club
- 4.13.1.3 Retail Store
- 4.13.1.4 Personal Service Business
- 4.13.1.5 Bank
- 4.13.1.6 Hotel, Motel
- 4.13.1.7 Storage Warehouse
- 4.13.1.8 Repair Service And Body Shop
- 4.13.1.10 Trucking Terminal
- 4.13.1.11 Animal Shelter, Veterinary Clinic,

4.13.2 Conditional Uses: The following uses are permitted after issuance of a Conditional Use Permit by the Board of Adjustment:

- 4.13.2.1 Gasoline Service Station
- 4.13.2.2 Restaurant
- 4.13.2.3 Planned Unit Development
- 4.13.2.4 Motor Vehicle Sales
- 4.13.2.5 Light Manufacturing or Assembly Shop
- 4.13.2.6 Quarrying and mineral extraction
- 4.13.2.7 Pet Boarding, Breeding and Grooming
- 4.13.2.8 Other use which the Planning Commission finds is of the same general character as those permitted, which will not be detrimental to other uses within the district or detrimental to adjoining land uses, and which is not specifically excluded by the ordinance.

4.13.3 Minimum requirements:

4.13.3.1 Lot area:

- Non-residential uses: 1 acre
- Residential uses: 2 acres

4.13.3.2 Lot frontage: 150 feet

4.13.3.3 Set Backs: New non-residential buildings on lots abutting residential lots shall be set back at least 50 feet from lot lines of residential lots.

4.14 INDUSTRIAL DISTRICT "I"

Description - Outside the boundary of Wells River Village that lies north of RT 302 and is bounded by the west side of the Blue Mountain School property on the east; and the Vermont Fish and Game ROW property (formerly the RR ROW) to the north; to where

Vermont Fish and Game ROW intersects with US 302 in the west.

Purpose - To provide for an area suited to the manufacture or assembly of products which will have the ability to accommodate expansion of commerce and to facilitate commercial needs generated from Interstate 91.

4.14.1 Permitted Uses: In Industrial Districts, "I", the following uses are permitted.

- 4.14.1.1 Office Building
- 4.14.1.2 Private Club
- 4.14.1.3 Gasoline Service Station
- 4.14.1.4 Retail Store
- 4.14.1.5 Hotel, Motel
- 4.14.1.6 Storage Warehouse
- 4.14.1.7 Bank
- 4.14.1.8 Repair service & Body Shop
- 4.14.1.9 Animal shelter, Veterinary Clinic
- 4.14.1.10 Light Manufacturing and assembly shop
- 4.14.1.11 Motor Vehicle Sales
- 4.14.1.12 Trucking Terminal
- 4.14.1.13 Restaurant

4.14.2 Conditional Uses: The following uses are permitted upon the issuance of a Conditional Use Permit by the Board of Adjustment.

- 4.14.2.1 Accessory Residence
- 4.14.2.2 Quarrying and mineral extraction
- 4.14.2.3 Pet Boarding, Breeding and Grooming
- 4.14.2.4 Other use which the Planning Commission finds is of the same general character as those permitted, which will not be detrimental to other uses within the district or detrimental to adjoining land uses, and which is not specifically excluded by the ordinance.

4.14.2 Minimum requirements:

- 4.14.2.1 **Lot requirements:** 1 acre
- 4.14.2.2 **Lot frontage:** 150 feet
- 4.14.2.3 **Lot depth:** 150 feet
- 4.14.2.4 **Set Backs:** New non-residential buildings on lots abutting residential lots shall be set back at least 50 feet from lot lines of residential lots.

4.15 NEWBURY VILLAGE HOME-BASED BUSINESS "NVHB"

Description – Includes that land within Newbury Village from a line 250 feet on either side of Route 5 to a line 500 feet on either side of Route 5 terminating at the northern end of the village where US 5 starts to follow the Connecticut River except for the NVS area to the north of Chapel St (TH4) and to the south of Pine St (TH81).

Purpose - To encourage development in Newbury Village of small businesses and services in keeping with the historic pattern of settlement, thus reducing the burden on the town to provide for services such as highways and schools, reducing the costs of scattered development.

Performance Standards

- A. Home-based businesses within this district **MUST** be an accessory use to a residential dwelling. It must occupy a minor (less than 50%) portion of the business owner's residential dwelling or be confined to an accessory structure to a residential dwelling
- B. Employees are limited to no more than three (3) non family persons not living on the premises.
- C. There may be no more than 2 deliveries by trucks per week. Deliveries by pickup trucks, small vans and UPS, FedEx or similar delivery services are not restricted. Deliveries must not interfere with the normal usage of the neighborhood.
- D. There may be no more than 5 customer-allocated parking spaces. All parking must be off road. In addition, there must be at least two (2) parking spaces for residents' use.
- E. Home-based businesses cannot open before 8am and must close by 8pm. Exceptions can be made by the Planning Commission, if the nature of the business warrants other hours of operation.
- F. Activities associated with the business shall not create a nuisance to the neighborhood in which they are located. This includes but is not limited to excessive noise, odors, dust and traffic congestion.
- G. A Site Plan review (section 2.10) by the Planning Commission is **REQUIRED**.
- H. Newbury Village Trustees and Water Commissioners must be notified of the public hearing for Site Plan Review at least fifteen (15) days prior to the hearing.

4.15.1 Permitted Uses: In those sections of Newbury Village designated Newbury Village Home-Based Business (NVHB) the uses listed in 4.0.1 and 4.0.2 are permitted, the following uses shall also be permitted:

- 4.15.1.1** Professional residence - office
- 4.15.1.2** School
- 4.15.1.3** Religious institution
- 4.15.1.4** Private club
- 4.15.1.5** Multi-Unit Dwelling of less than 5 units
- 4.15.1.6** Retail Store
- 4.15.1.7** Personal Service business
- 4.15.1.8** Clinic

- 4.15.1.9 Elderly Housing
- 4.15.1.10 Bank

4.15.2 Conditional Uses: The following uses are permitted after issuance of a Conditional Use Permit by the Zoning Board of Adjustment:

- 4.15.2.1 Limited-seating Restaurant
- 4.15.2.2 Animal Shelter, Veterinary Clinic
- 4.15.2.3 Quarrying and mineral extraction
- 4.15.2.4 Pet Boarding, Breeding and Grooming
- 4.15.2.5 Other use which the Planning Commission finds is of the same general character as those permitted, which will not be detrimental to other uses within the district or detrimental to adjoining land uses, and which is not specifically excluded by the ordinance.

4.15.3 Minimum requirements:

4.15.3.1 Lot Area

One family dwelling,	1 acre
Two family dwelling,	1 acre
Three or more unit dwelling,	2 acres
Elderly Housing,	1 acre minimum

4.15.3.2 Lot Frontage: 200 ft.

4.15.3.3 Lot Depth: 200 ft.

5 DEFINITIONS: Except where specifically defined herein, all words used shall carry their customary meanings. Doubt as to the precise meaning of any word used in this ordinance shall be clarified by the Board of Adjustment. Words used in the present tense include the future and words used in the singular include the plural. The word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied"; "person" includes individual, partnership, association, corporation, company or organization.

5.0 Accessory Dwelling Unit: These regulations allow as a permitted use, one accessory dwelling unit that is located within or appurtenant to an owner-occupied one-family dwelling unit. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a one-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

5.0.1 The property has sufficient wastewater capacity.

5.0.2 The unit does not exceed 1,500 square feet or fifty percent (50%) of the total habitable floor area of the single-family dwelling.

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

Conditional use review is required for an accessory dwelling unit that results in the following:

- (i) a new accessory structure;
- (ii) an increase in the height or floor area of the existing dwelling; or
- (iii) an increase in the dimensions of the parking areas.

5.1 Accessory Residence: A single family dwelling incidental, subordinate, and reasonably necessary to the conduct of a commercial or industrial use or building located on the same lot as the principal use and occupied by the proprietor or employees thereof.

5.2 Accessory use or Building: A use or building incidental and/or subordinate to the principal use or building and located on the same lot.

5.3 Agricultural Use: Land containing at least two acres which is used for raising livestock, or agricultural or forest products, including farm structures and the storage of agricultural equipment; riding and boarding stable; and as an accessory use the sale or processing of products raised on the property.

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

5.5 Animal Shelter or Veterinary Clinic: Place for the housing and medical treatment of domestic animals; provided that the lot is a minimum of 2 acres and that structures for housing animals are at least 200 feet from the nearest residence. A one family residence occupied by the property owner, the veterinarian, or an employee of the clinic may be attached to or closer than 200 feet from a structure housing animals as long as it is located on the same lot.

5.6 Bed and Breakfast/Boarding House: A building with a central or common entrance used as a dwelling unit by the owner or tenant containing one to six rooms for public lodging providing room and/or meals for lodging guests only and which does not materially change the character of the immediate area. The use does not include motels or the commercial catering of on-premises functions such as private parties, receptions, or banquets.

5.7 Boat Dock: A flat platform, floating or anchored, used for recreational purposes and or for the securing of boats. No structure of any type shall be constructed on a dock.

5.8 Boat House: A floating or anchored structure used only

as a shelter for boats and boating equipment.

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

5.10 Building Front Line: A line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

5.11 Campground: A group of three or more tents, travel trailers and or cabins, located on a single lot for the purpose of short-term rental for recreational purposes.

5.12 Clinic: An office building used by members of the medical profession for the diagnosis and out-patient treatment of human ailments.

5.13 Deck: Unenclosed wooden decking with post supports (no foundation). There shall be no roof, nor shall any walls or railings be higher than 36 inches.

5.14 Development: Commencement of a use or the building of a structure, or the alteration of an existing use or structure.

5.15 Dwelling Unit: A building or part thereof used as living quarters for one household. The term "dwelling", "one-family dwelling", "two-family dwelling", "multi-unit dwelling" or "dwelling group" shall not include a motel, hotel, boarding house, tourist home, or similar structure.

5.16 Elderly Housing: A multi-unit dwelling dedicated to the housing of persons 55 years of age or older. In the case of married couples one spouse shall be 55 years of age or older.

5.17 Fence: A structure for the purposes of enclosing land to contain animals, children or to protect property and residents.

5.18 Forestry: The actual felling and cutting of trees on the property on which they were grown, using Acceptable Management Practices for Logging Jobs in Vermont.

Forestry does not include sawmills, paper mills, kilns, sites for the receiving and distribution of logs harvested on other sites, or other such activities.

5.19 Frontage: That portion of a lot which is adjacent and parallel to a street, road, or right-of-way.

5.20 Garage Sales: The occasional selling of personal goods by an individual or group of individuals at their place of residence. Sales lasting more than three consecutive weekends or 15 consecutive days shall be deemed to be a commercial retail store.

5.21 Gasoline Service Station: A building or lot 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. Painting and major repairs are excluded.

5.22 Gazebo: A single story open structure on post supports (no foundation) which shall not be greater than 200 square feet in area nor higher than 16 feet. It may be screened but may not have windows, nor shall it contain any plumbing.

5.23 Group Home: A state licensed or registered community care facility serving not more than 8 people who have a handicap or disability as defined in 9 V.S.A. Section 4501.

5.24 Highway Construction: All activities relating to the movement and placement of earth, rock, and other materials to accommodate motor vehicles and other similar road traveling equipment.

5.25 Home Occupation: An accessory use conducted within dwelling or permitted accessory buildings by a resident living on the premises and which meets the criteria of Section 3.4.

5.26 Household: A household includes all the people who occupy a housing unit as their place of residence. The term "household" includes families, but it is not limited to it; "households" include non-relatives living together.

5.27 Housing Unit: A house, an apartment, a mobile home or trailer, a group of rooms, or a single room occupied as separate living quarters, or if vacant, intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have direct access from outside the building or through a common hall.

5.28 Light Manufacturing and Assembly: Consists of production, processing, cleaning, testing or distribution of uses which does not produce excessive noise, fumes, wastes or heavy truck traffic or involve substantial use of water in the manufacturing process.

5.29 Limited-seating Restaurant: A business that prepares, serves, and sells food for consumption on or off the premises but seats no more than 12 people at one sitting and does not include a drive through window.

5.30 Lot: Land with or without structures as depicted by survey and shown on tax maps, or defined by a properly recorded deed. If land has been subdivided by a permit or a waiver granted by the Planning Commission, each entity of the subdivided land shown on tax maps is to be considered a lot under this definition

5.31 Mobile home: A moveable unit with or without wheels, used for living quarters. A sectional prefabricated house shall not be considered a mobile home. To qualify as a mobile home the living unit must be connected to a sewage disposal facility constructed to meet state and town standards. Any movable living unit which is not connected to an approved sewage disposal system shall be designated a trailer.

5.32 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.

5.33 Motor Vehicle Sales: A business which offers more than three new or used automobiles, motorcycles, mobile homes or recreational vehicles for sale at any one time.

5.34 Multi-Unit Dwelling: A building used as living quarters for more than two households.

5.35 Multiple Use: Structures or lots for which there is more than one compatible use; such as buildings which contain commercial and residential units, or commercial buildings which house a combination of retail and office space.

5.36 Non-Complying Structure: A structure not complying with the zoning regulations for the district in which it is located, where such structure complied with all applicable laws, ordinances and regulations prior to enactment of these regulations.

5.37 Non-Conforming Use: The use of land or a structure which does not comply with all Zoning Regulations for the district in which it is located, where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of this ordinance.

5.38 Parcel: The total adjoining land holdings of any person.

5.39 Pet boarding establishment: Any structure, land, or combination thereof lawfully located on a premises zoned for such use for where pet animals owned by another person are temporarily boarded during the day and/or overnight for pay, trade, barter, commission, or remuneration of any sort. Pets include small animals such as dogs, cats, or other domestic animals, but exclusive of animals used for agricultural purposes. This definition shall not apply to animal hospitals

with boarding facilities operated by veterinarians duly licensed under the law.

5.40 Pet breeding establishment: Any pet animal breeding place lawfully located on a premises zoned for such use and registered with a nationally recognized registration organization, with dogs over the age of six months that are owned or kept for the purpose of breeding purebred or pedigreed dogs for commercial sale. This definition shall not apply to animal hospitals operated by veterinarians duly licensed under the law and shall not apply to breeding of horses, breeding of animals for agricultural purposes, commercial pet breeding where no more than one litter is raised per year, or non-commercial raising of pets.

5.41 Pet grooming service: Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged. No overnight boarding is allowed unless permitted as an animal boarding place.

5.42 Personal Service: A barber shop, beauty parlor, shoe repair shop, laundromat, dry cleaner, photographic studio or other business providing a similar personal service.

5.43 Premises: A lot as defined in this section, including any building thereon.

5.44 Principal Structure: A dominant building, the use of which is fundamental and superior to any other use of the land or the lot. This includes single and multifamily dwellings. Secondary and accessory dwellings separate from the principal structure are not included in the density calculations.

5.45 Principal Use: The use dominant on a lot, such use being fundamental and superior to any other use of the land or the lot.

5.46 Private Club: Building or use catering exclusively to club members and their guests for recreational purposes.

5.47 Professional Residence - Office: A residence in which the occupant maintains a professional office clearly secondary to the dwelling use which does not change the residential character thereof.

5.48 Public Utility: Any communication or power facility which is governed by the Vermont Public Service Board.

5.49 Recreation, Private Outdoor: A yacht club, golf course, trap, skeet or archery range, swimming pool, skating rink, riding stable, park, beach, tennis court, ball field, ski slope, licensed seasonal camp, or similar facility.

5.50 Recreation, Public Outdoor: A publicly owned and operated playground,

play-field, park, open space, swimming pool or similar facility.

5.51 Repair and Body Shop: A business engaged in the mechanical and or body repairs of motor vehicles. This does not include the sale of gasoline or motor vehicles.

5.52 Residential Use: A one-family dwelling, two-family dwelling, multi-unit dwelling, home occupation or professional residence-office.

5.53 Religious Institution: Includes churches, temples, monasteries, convents, retreat houses, seminaries, parish houses and other similar uses.

5.54 Restaurant: A business which prepares, serves, and sells food for consumption on or off the premises.

5.55 Retail Store: A store for the sale of retail goods, grocery stores, or department stores; and shall exclude any drive-up food service, gasoline service, motor vehicle service, new or used car sales, or trailer or mobile home sales or service.

5.56 Seasonal Shelter: A building that is occupied for a period of less than 120 days in any calendar year. The shelter must be meet setback requirements and be located on a lot which meets the minimum lot size. Adequate provisions must be provided for the sanitary disposal of sewage, either at an existing residence or through a self contained unit.

5.57 School: Public, parochial, private, pre-schools, or daycare including colleges and universities, but shall not include commercially operated schools of beauty, culture, dance, driving, music or other similar establishments.

5.58 Sign: A structure, display, device or representation exterior to a building which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any highway or other right-of-way. Displaying the flag, pennant or insignia of any nation, state or town does not require a permit. When dimensions of a sign are specified they shall include panels and frames.

5.59 Solid Waste: Any refuse, garbage, metal goods, tires demolition or construction wastes, junk cars, yard wastes, sludge or other discarded materials. This does not include hazardous wastes.

6.60 Storage Warehouse: A building used for the purpose of storing raw materials or goods. No processing of goods or materials is allowed except for the re-packaging of products for distribution.

6.61 Street: A street, avenue, boulevard, road, alley or other permanently deeded

right-of-way at least 50 feet in width. Private driveways are excluded.

5.62 Structure: Means an assembly of materials for occupancy or use, including but not limited to a building, mobile home or trailer, billboard, sign, wall, or fence except a wall or fence on an operating farm.

5.63 Subdivision: Land defined by a properly recorded deed, which land is later divided into two or more pieces by permit or waiver granted by the Planning Commission and is depicted on the tax maps as an individual entity. Each entity may or may not be described by a separate deed.

5.64 Trailer: A vehicle used for 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, boats or as an office. A trailer, used for living quarters more than 120 days in a calendar year, must be connected to an approved sewage disposal system, and shall be designated a mobile home.

5.65 Truck Terminal: A facility in which goods are redistributed. It may also include facilities for minor truck repairs.

5.66 Wildlife Refuge: An area set aside for the purpose of conservation of plants, animals and general environment within it. These are noncommercial areas usually without any structures on them. A single parking area and walking trails are characteristic of a wildlife refuge.

5.67 Zoning Permit: Written authorization duly issued by the Administration officer after a fee, established by the Selectboard, is paid, to proceed with a new construction project or subdivision and which document specifically states conditions and/or restrictions for the project or subdivision.