

**STOCKBRIDGE INTERIM  
ZONING BYLAWS**

**Interim Changes Adopted  
October 18, 2007  
for flood language compliance**

**to amend the bylaws adopted  
September 15, 2005**

**EFFECTIVE: NOVEMBER 8, 2007**

**EXPIRE: NOVEMBER 8, 2009**

**INTERIM BYLAWS CAN BE EXTENDED FOR ONE YEAR BY SELECTBOARD**

# TABLE OF CONTENTS

<b>1. GENERAL PROVISIONS .....</b>	<b>3</b>
1.1 ENACTMENT .....	3
1.2 PURPOSE .....	3
1.3 EFFECTIVE DATE .....	3
1.4 STATUS OF PRIOR BYLAWS AND ORDINANCES .....	3
<b>2. GENERAL BYLAWS.....</b>	<b>4</b>
2.1 APPLICATION OF BYLAWS .....	4
2.2 ZONING PERMIT .....	4
2.4 AGRICULTURAL, AND FARMING, AND FORESTRY - PERMIT NOT REQUIRED.....	4
2.5 CONSTRUCTION APPROVED OR COMMENCED PRIOR TO ADOPTION OR AMENDMENT OF THESE BYLAWS .....	5
2.6 CERTIFICATE OF OCCUPANCY .....	5
2.7 AFFORDABLE HOUSING.....	5
2.7.1 MOBILE HOMES, MODULAR HOUSING, PREFABRICATED .....	5
2.7.2 MULTI FAMILY HOUSING .....	6
2.8 CHILDCARE FACILITIES .....	6
<b>3. ZONING DISTRICTS.....</b>	<b>7</b>
3.1 ESTABLISHMENT OF ZONING DISTRICTS AND MAP.....	7
3.2 INTERPRETATION OF ZONING DISTRICT BOUNDARIES .....	7
3.3 VILLAGE RESIDENTIAL DISTRICT “VR” .....	8
3.4 BUSINESS ENTERPRISE DISTRICT - “BE” .....	9
3.5 RURAL RESIDENTIAL DISTRICT - “RR” .....	10
3.6 UPLAND CONSERVATION DISTRICT - “UC” .....	11
3.7 FLOOD PROTECTION OVERLAY DISTRICT - “FP” .....	12
<b>4. SPECIAL PROVISIONS.....</b>	<b>18</b>
4.1 EXISTING SMALL LOTS.....	18
4.2 REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR WATERS.....	18
4.3 LOTS IN TWO ZONING DISTRICTS .....	18
4.4 SEWAGE DISPOSAL.....	18
4.5 OFF-STREET PARKING .....	19
4.6 OUTDOOR STORAGE OF JUNK .....	19
4.7 HOME OCCUPATIONS .....	20
4.8 TEMPORARY STRUCTURES .....	20
4.9 OBNOXIOUS USES .....	20
4.10 SIGNS - PERMIT REQUIRED .....	20
4.11 SIGNS - EXEMPTIONS.....	21
4.12 EXTRACTION OF GRAVEL, SAND, SOIL AND ROCK .....	21
4.13 DIVISION OF LOTS .....	22
4.14 CONSERVATION.....	22
4.15 MOBILE HOME PARKS .....	22
4.16 ACCESSORY DWELLING UNITS .....	22
4.17 WIRELESS COMMUNICATIONS FACILITIES.....	23
4.18 HEIGHT LIMITATIONS .....	24
4.19 HOME INDUSTRY .....	25
4.20 EXTERIOR LIGHTING .....	25
4.21 OUTDOOR DISPLAYS .....	25
4.22 PUBLIC USE LIMITATIONS .....	26
4.23 BUFFER STRIP .....	26
4.24 NATURAL RESOURCE LIMITATIONS.....	26

<b>5.</b>	<b>ADMINISTRATION, ENFORCEMENT, APPEALS .....</b>	<b>28</b>
5.1	ZONING ADMINISTRATOR.....	28
5.2	PLANNING COMMISSION.....	28
5.3	ZONING BOARD OF ADJUSTMENT (ZBA) .....	28
5.4	ZONING PERMIT .....	29
5.4.1	ZONING PERMIT APPLICATION .....	29
5.4.2	COMPLETED PERMIT APPLICATION .....	30
5.4.3	REFERRAL TO STATE AGENCY PRIOR TO ISSUANCE .....	30
5.4.4	APPROVAL OR DENIAL OF PERMIT .....	31
5.4.5	EFFECTIVE DATE OF ZONING PERMIT.....	31
5.4.6	APPEAL OF ZONING ADMINISTRATOR’S ACTIONS OR ZONING PERMIT.....	31
5.4.7	EXPIRATION OF ZONING PERMIT .....	32
5.5	DISCONTINUANCE AND ABANDONMENT .....	32
5.6	NON-CONFORMING USES AND NON-COMPLYING STRUCTURES .....	32
5.7	PRE-EXISTING VIOLATIONS.....	33
5.8	CONDITIONAL USE APPROVAL .....	33
5.8.1	APPLICATION FOR CONDITIONAL USE APPROVAL.....	33
5.8.2	HEARING FOR CONDITIONAL USE APPROVAL .....	33
5.8.3	PROVISION FOR INDEPENDENT CONSULTANTS .....	33
5.8.4	APPROVAL OR DENIAL .....	34
5.8.5	EXPIRATION OF APPROVAL FOR CONDITIONAL USE APPROVAL.....	34
5.8.6	APPEAL FOR CONDITIONAL USE APPROVAL.....	34
5.9	VARIANCES .....	34
5.9.1	APPEAL FOR VARIANCE.....	34
5.9.2	EXPIRATION OF VARIANCE.....	35
5.9.3	APPEAL OF VARIANCE OR WAIVER .....	35
5.10	NOTICE OF PUBLIC HEARINGS .....	35
5.11	VIOLATIONS AND ENFORCEMENT.....	36
5.11.1	VIOLATIONS .....	36
5.11.2	NOTICE OF VIOLATION .....	36
5.11.3	ENFORCEMENT AND FINES .....	37
5.11.4	PLANNING COMMISSION - APPEALS.....	37
5.11.5	SITE PLAN APPROVAL .....	37
<b>6.</b>	<b>DEFINITIONS .....</b>	<b>39</b>
<b>7.</b>	<b>CLUSTERED HOUSING DEVELOPMENT .....</b>	<b>47</b>
7.1	GENERAL INTENT AND PURPOSES .....	47
7.2	CLUSTERED HOUSING DEVELOPMENT APPROVAL - STANDARDS AND CONDITIONS .....	47
7.3	CLUSTERED HOUSING DEVELOPMENT - GENERAL PROCEDURES .....	48

# **1. GENERAL PROVISIONS**

## **1.1 Enactment**

Whereas the Town of Stockbridge, Vermont has created a Planning Commission and has adopted and has in effect a plan under the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117, herein referred to as the Act, there is hereby established these Zoning Bylaws for the Town of Stockbridge.

## **1.2 Purpose**

It is the purpose of these Bylaws to implement the Stockbridge Town Plan by providing for the appropriate use of all lands in the Town of Stockbridge in a manner which will promote and protect the public health, safety, prosperity, and general welfare; to protect high elevations, steep slopes, soils, forests, stream banks, wetlands, and other natural resources; to encourage the density and distribution of settlement to be in character with the rural residential environment of the town; and to further the purposes set forth in Section 4302 of the Act.

## **1.3 Effective Date**

These Bylaws or any amendments thereto, shall become effective upon date of their adoption by a vote of the Stockbridge Selectboard at a regular or specially warned meeting.

## **1.4 Status of Prior Bylaws and Ordinances**

Upon the effective date of these Bylaws, the Town of Stockbridge Zoning Bylaws adopted September 2005 are hereby amended.

## **1.5 Validity and Severability**

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

## **1.6 Precedence of Ordinance**

The provisions of this ordinance shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall take precedence.

## **2. GENERAL BYLAWS**

### **2.1 Application of Bylaws**

No building or structure shall be erected, replaced, moved, altered or extended; and no land, building or structure, or part thereof shall be used or substantially changed in use unless in conformity with these Bylaws.

### **2.2 Zoning Permit**

Except as provided herein, no building or land development, construction, reconstruction, conversion, relocation, replacement or enlargement of any building or other structure, nor any mining, excavation or landfill, nor any change in the use of any building or other structure, or land, or extension of use of land, may commence unless a Zoning Permit shall have been duly issued by the Zoning Administrator. Zoning Permits are not required for interior alterations or renovations provided the use of the building or structure remains substantially unchanged. Addition of internal bedrooms may necessitate septic approval and owners should check prior to beginning such projects. Prospective applicants for Zoning Permits may obtain application materials from the Town Offices or Zoning Administrator during regular office hours.

All projects, as authorized by a Zoning Permit, shall be commenced within a period of two years unless construction has been delayed by litigation to secure other permits or approvals. Approved projects not commenced at time of expiration of a Zoning Permit may not be commenced without a valid Permit.

### **2.4 Agricultural, and Farming, and Forestry - Permit Not Required**

Pursuant to 24 V.S.A. § 4413(d) farm structures (excluding dwellings), accepted agricultural practices, and accepted silvicultural practices, as defined in by the Secretary of Agriculture Food and Marketing or the Commissioner of Forest Parks and Recreation respectively under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6 are exempt from local permitting requirements. Agricultural and silvicultural practices not in conformance with the Act are prohibited.

Though no permit is required, farmers intending to erect a farm structure must notify the municipality of the intent to build a farm structure, and abide by setbacks contained within the zoning ordinance, unless they provide an approval of lesser setbacks by the Commissioner of Agriculture, Food and Markets. The notification must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way. Additionally, all farm structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program.

Lastly, the municipality may report violations of Accepted Agricultural Practices or accepted silvicultural practices to the appropriate state authorities for enforcement.

## **2.5 Construction Approved or Commenced prior to Adoption or Amendment of these Bylaws**

No Zoning Permit shall be required for any building upon which construction had begun or within which a use was established prior to the adoption or amendment to these Bylaws, provided such construction is completed within one (1) year from the date of such adoption of amendment. Nothing contained in these Bylaws shall require any change in plans or construction of a non-complying structure for which a Zoning Permit has been issued and which has been completed within one (1) year from the effective date of these Bylaws.

## **2.6 Certificate of Occupancy**

In order that there be a determination that all buildings hereafter altered, enlarged, moved or constructed and all uses of land and structures are in accordance with the provisions of the Zoning Permit authorizing such activity, a Certificate of Occupancy shall be required prior to the use or occupation of any land or building or part thereof (excepting accessory buildings or structures).

A Certificate of Occupancy shall be issued by the Administrative Officer upon determination that the building or use authorized by the Zoning Permit is in substantial compliance with the standards and conditions of said permit, these Zoning Bylaws and any applicable health regulations.

A Certificate of Occupancy shall be granted or denied within fourteen (14) days after written notice of completion by the applicant to the Zoning Administrator, and shall remain in effect as long as such building or use is in compliance with the standards and conditions authorized by the zoning permit. The Applicant shall have the right to occupy said premises if the Zoning Administrator does not respond within the fourteen (14) day period. This shall not be conclusive evidence that the premises comply with the provisions of these Bylaws.

If the Administrative Officer, after such final inspection, refuses to issue a Certificate of Occupancy, he or she shall state such refusal and cause in writing and immediately mail notice of such refusal to the applicant at the address indicated on the application. Appeals from decisions of the Zoning Administrator shall be taken to the Zoning Board of Adjustment

## **2.7 Affordable Housing**

This bylaw shall not have the effect of excluding low and moderate income housing.

### **2.7.1 Mobile Homes, Modular Housing, Prefabricated**

Pursuant to 24 V.S.A. § 4412 (1)(B), a mobile home shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under this bylaw.

## **2.7.2 Multi Family Housing**

This Bylaw shall not have the effect of excluding multiunit or multifamily (three or more units in one structure) dwellings from the Town of Stockbridge. 24 V.S.A. § 4412(1) (D).

A multifamily dwelling shall be considered a conditional use in the rural residential and business enterprise districts. Multifamily dwellings shall be subject to the following conditions:

Multifamily units will be required to provide adequate parking, but no less than one parking space per unit, and shall comply with all state requirements for septic, health, and safety regulations.

## **2.8 Childcare Facilities**

A family child care home serving no more than six full-time children and four part-time children shall be considered to constitute a permitted single family residential use of property. A family child care facility serving more than six full-time and four part-time children shall be reviewed as a conditional use.

### **3. ZONING DISTRICTS**

#### **3.1 Establishment of Zoning Districts and Map**

For the purpose of these Bylaws, the following Zoning Districts are hereby established within the Town of Stockbridge.

A.	Village Residential District	VR
B.	Business Enterprise District	BE
C.	Rural Residential District	RR
D.	Upland Conservation District	UC/PL
E.	Flood Protection Overlay District	FP

The areas and boundaries of the Zoning Districts are established as shown on a map which is hereby designated as the Official Zoning Map for the Town of Stockbridge and made a part of these Bylaws, together with all future amendments. The official zoning map shall be signed by the Selectboard upon adoption and stamped with the seal of the Town Clerk and remain on file with the Town.

#### **3.2 Interpretation of Zoning District Boundaries**

If uncertainty exists with respect to the boundary of any Zoning District, the location of such boundary on the ground shall be determined by the Administrative Officer. If the Administrator cannot make such a determination, or if the applicant or other interested party is not satisfied with the decision, the matter shall be determined by the Zoning Board of Adjustment. In making such determination, the applicant may be required to submit information regarding the existing uses and characteristics of the property.

The Administrative Officer shall determine the boundaries of any designated area of special flood hazard by scaling distances 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 Special Flood Hazard Area (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.

As guidance for use in their determination, zoning district boundaries shall normally be conterminous with property lines, centerlines of roads, or centerlines of water courses unless otherwise noted.

### **3.3 Village Residential District “VR”**

**A. Purpose:** To provide for the continuance of areas known as Gaysville and Stockbridge villages as social and physical centers of community services; to enable higher density residential and non-residential uses in the traditional village setting and to protect and enhance their character and quality in the future.

**B. Uses Requiring An Administrative Permit:**

1. Single or Two Family Dwelling
2. Home Occupation
3. Accessory dwelling (see Section 4.16)
4. Accessory Structure or Use
5. Childcare facilities
6. Residential Care or group home

**C. Uses Requiring A Conditional Use Permit:**

1. Neighborhood Commercial Facility
2. Multi-Family Dwelling
3. Recreation Facility, Outdoor-Public or Private
4. Public Utilities
5. Public Buildings or Uses
6. Lodging House
7. Home Industry
8. Cemetery
9. Office
10. Wireless Communications Facility
11. Residential care or group home

**D. Land, Area, and Structural Requirements:**

1. Minimum Lot Area: 1 acre for residential; 45,000 square feet for non-residential
2. Minimum Lot Frontage: 100 feet
3. Minimum Lot Depth: 200 feet
4. Minimum Front Setback: 50 feet
5. Minimum Side Setback 25 feet
6. Minimum Rear Setback 25 feet
7. Maximum Building Height 35 feet
8. Maximum Lot Coverage 20%

### **3.4 Business Enterprise District - “BE”**

**A. Purpose:** To provide for non-residential land development at a scale, type, and density as to maintain the scenic quality of Routes 100 and 107; to maximize traffic and pedestrian safety; to provide an attractive, convenient, safe place to conduct business; and to protect and preserve these areas from poorly planned development.

**B. Uses Requiring An Administrative Permit:**

1. Single or Two-Family Dwelling
2. Home Occupation
3. Accessory dwelling unit
4. Accessory Structure and Use
5. Childcare facilities
6. Residential Care or group home

**C. Uses Requiring A Conditional Use Permit:**

1. Multi-Family Dwelling
2. Motel/Hotel
3. Lodging House
4. Travel Trailer Park
5. Home Industry
6. Recreation Facility
7. Personal Service
8. Public Building or Use (such uses shall only have to comply with those aspects that can be regulated under 24 VSA Section 4413a)
9. Public Utilities
10. Wireless Communications Facility
11. Retail Store
12. Wholesale Distributor
13. Auto Service Station
14. Quarrying and Mineral Extraction
15. Neighborhood Commercial Facility
16. Residential Care or group home
17. Other similar commercial or industrial uses upon determination by the ZBA that such use is of the same general character as those permitted and will not be detrimental to the other uses within the District as well as adjoining uses.

**D. Land, Area, and Structural Requirements:**

1. Minimum Lot Area: 1 acre
2. Minimum Lot Frontage: 100 feet
3. Minimum Lot Depth: 200 feet
4. Minimum Front Setback: 50 feet
5. Minimum Side Setback: 25 feet
6. Minimum Rear Setback: 25 feet
7. Maximum Building Height: 35 feet
8. Minimum Lot Coverage: 20%

### 3.5 Rural Residential District - “RR”

**A. Purpose:** To enable rural settlement which is sensitive to and guided by the physical limitations of the land; and to create a pattern of settlement which is compatible with the rural and natural character of Stockbridge.

**B. Uses Requiring An Administrative Permit:**

1. Accessory Structure or Use
2. Home Occupation
3. Single or Two Family Dwelling
4. Accessory Dwelling Unit
5. Childcare facilities
6. Residential Care or group home

**C. Uses Requiring Conditional Use Permit:** a lot in a RR district

1. Multiple Family Dwelling
2. Public Building or Use
3. Public Utility
4. Recreation Facility
5. Home Industry
6. Quarrying and Mineral Extraction
7. Lodging House
8. Wireless Communications Facility
9. Auto Service Facility
10. Bed and Breakfast Inn
11. Personal Service
12. Retail Store
13. Neighborhood Commercial Facility
14. Residential Care or group home
15. Mobile home park
14. Other similar uses upon determination by the ZBA that such use is of the same general character on those permitted and will not be detrimental to the other uses within the District as well as adjoining uses.

**D. Land Area and Structural Requirement:**

1. Minimum Lot Area: 1 acre
2. Minimum Lot Frontage: 100 feet
3. Minimum Lot Depth: 200 feet
4. Minimum Front Setback: 50 feet
5. Minimum Side Setback: 25 feet
6. Minimum Rear Setback: 25 feet
7. Maximum Building Height: 35 feet
8. Maximum Lot Coverage: 20%

### **3.6 Upland Conservation District - “UC”**

**A. Purpose:** To conserve areas which are ecologically fragile; to promote the enhancement or maintenance of important wildlife habitats and forests; and to maintain the visual quality of mountain sides by encouraging limited residential development and other low intensity uses in clusters or areas of minimal visual and environmental impact.

**B. Uses Requiring An Administrative Permit:**

1. Accessory Structure or Use
2. Home Occupation
3. Single or Two Family Dwelling
4. Accessory dwelling unit

**C. Uses Requiring a Conditional Use Permit:**

1. Multiple-Family Dwelling
2. Public Building or Use
3. Public Utility
4. Recreation Facility
5. Home Industry
6. Quarrying and Mineral Extraction
7. Lodging House
8. Wireless Communications Facility
9. Other similar uses of a non-commercial nature upon determination by the ZBA that such use is of the same general character as those permitted and will not be detrimental to the other uses within the District as well as adjoining uses.

**D. Land, Area And Structural Requirements:**

1. Minimum Lot Area: 10 acres
2. Minimum Lot Frontage: 400 feet
3. Minimum Lot Depth: 400 feet
4. Minimum Front Setback: 50 feet
5. Minimum Side Setback: 25 feet
6. Minimum Rear Setback: 25 feet
7. Maximum Building Height: 35 feet

### **3.7 Flood Protection Overlay District - “FP”**

**A. Purpose:** It is the purpose of this bylaw 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.

**B. Official Flood Hazard Area Map:**

These regulations shall apply to all lands in the Town of Stockbridge, Vermont, within identified as areas of special flood hazard (SFHA) 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 map produced by FEMA and entitled Flood Insurance Rate Map (FIRM), Town of Stockbridge, Vermont and any revisions thereto is 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.

**C. 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.

**D. Board of Adjustment:**

1. Upon receiving an application for a permit under these Bylaws, the ZBA shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant the following:
  - (a) Base flood elevation data for all subdivisions and other proposed new developments;

- (b) The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
  - (c) Where flood proofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been flood proofed;
  - (d) Certification from a registered professional engineer or architect that the flood proofed structure meets the flood proofing criteria of subsection 9.1 of the National Flood Insurance Program, and
  - (e) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
2. Where available; i.e., Zone A1-A30, AE and AH; the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these Bylaws.
  3. In areas where base flood elevations and floodway limits have not been provided, the ZBA shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for approval of all development.
  4. The ZBA shall notify adjacent communities and the Vermont Department of Environmental Conservation prior to approval of any alteration or relocation of a water course and shall submit copies of such notifications to the Federal Insurance Administrator (FIA) Administrator.

**E. Development Standards:**

1. Floodway Areas - Development within the floodway is prohibited. In any unnumbered A zones where no regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
2. Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway)
  - (a) 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, including the provision of adequate drainage to reduce exposure to flood hazards, 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.

(b) 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 floatation, 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 floatation, collapse, and lateral movement.

(c) 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 and 44 CFR 60.3(c)(3)(ii).

(d) 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.

(e) 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.

(f) 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 E.2 (b) ii.

(g) 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, lateral movement or collapse; and

- v. shall have service facilities such as electrical and heating equipment elevated or floodproofed.
- (h) Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (i) 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.
- (j) On-Site Waste Disposal Systems: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (k) Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- (l) Flood storage capacity: The net post-development flood storage capacity shall not be less than the pre-development capacity. If cuts and fills are used under this provision then a certification by an engineer of the net change in flood storage and that the modifications do not create any increase in erosion or flood hazard is required.
- (m) Proposed development shall be conditioned on the receipt of all necessary permits from those government agencies from which approval is required by Federal, State or Municipal law.

**F. Conditionally Permitted Uses:** Single Family or Two Family Dwelling, Home Occupations, Accessory Dwelling, Accessory Structure, Recreational Facility, Multi-Family Dwelling, Public Utilities, Public Building, Quarrying and Mineral Extraction, Wireless Communications Facility, and Home Industry.

**G. Prohibited Uses:** Junkyards, landfills, and storage facilities for chemicals, explosives, flammable liquids or other toxic materials shall be prohibited in the overlay district.

**H. Warning of Disclaimer of Liability:** These Bylaws 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 Bylaws shall not create liability on the part of the Town of Stockbridge or any Town Official or employee thereof for any flood damages that result from reliance on these Bylaws or any administrative decision lawfully made hereunder.

**I. Non-Complying Structures:** The Board of Adjustment may, after public notice and hearing, approve the repair, relocation, replacement or enlargement of a non-complying structure within a regulated flood hazard area, subject to compliance with the applicable considerations and requirements of Section 5.6 of this ordinance and provided that the following criteria are met:

1. The Board finds that the repair, relocation, or enlargement of such non-complying structure is required for the continued economically feasible operation of a non-residential enterprise.
2. The Board finds that the repair, relocation, or enlargement of a non-complying residential or non-residential structure will not increase flood levels in the regulatory floodway, threaten the health, safety, and welfare of the public or other property owners.
3. The permit so granted shall state that the repaired, relocated, or enlarged non-complying structure is located in a regulated flood hazard area does not comply to the ordinance pertaining thereto, may not be eligible for any flood insurance pertaining to regulated flood hazard areas, and will be maintained at the risk of the owner.
4. An existing non-complying structure destroyed by fire, flood, or similar causes shall, if to be replaced or rebuilt, comply with the National Flood Insurance requirements and this ordinance.
5. A copy of such permit shall be affixed to the copy of the deed of the conserved property on file in the Town Clerk's office.

**J. Annual Report to Federal Insurance Administration:**

1. The Administrative Officer shall submit to the Administrator an Annual Report with respect to the administration and enforcement of the flood hazard area Bylaws.
2. A copy of the Annual Report shall be submitted to the Vermont Department of Environmental Conservation.

## **4. SPECIAL PROVISIONS**

### **4.1 Existing Small Lots**

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

- The lots are conveyed in their preexisting, nonconforming configuration.
- On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
- At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
- 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.

### **4.2 Required Frontage On, or Access To, Public Roads or Waters**

No land development may be permitted which does not have adequate means of access, either frontage on a maintained public road (Class 1, 2, 3, or 4) or, with the approval of the Planning Commission access by means of a permanent easement or right of way to such a public road. Access easements or rights-of-way shall not be less than twenty (20) feet in width and constructed with proper drainage, erosion control, and so as not to exceed grades in the town road policy. If serving more than two lots or uses, the Planning Commission may require a right-of-way up to forty (40) feet in width to ensure public safety and orderly development. Access on a state highway must be permitted by Vermont Agency of Transportation and the Stockbridge Selectboard.

### **4.3 Lots in Two Zoning Districts**

Where a district boundary line divides a lot of record at the time such line is adopted, the Bylaws for the less restricted part of such a lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has a frontage on a road in the less restricted district.

### **4.4 Sewage Disposal**

An applicant for a Zoning Permit whose land requires a Subdivision Permit from the Protection Division of the Agency of Natural Resources shall obtain such permit prior to the consideration of a Zoning Permit application. A copy of such Permit shall be submitted as part of the Zoning Application.

In situations where a Sewer Permit is required from the State of Vermont prior to the installation or replacement of a wastewater disposal system, prospective applicants for a Zoning Permit shall first obtain a State of Vermont Wastewater Disposal Permit.

No wastewater disposal system planned, constructed, or operated within the Town shall violate State or local Bylaws governing water pollution or sewage disposal.

#### **4.5 Off-Street Parking**

No land, building or structure shall be used or substantially changed in use unless there is provided off-street parking that meets the applicable minimum requirement as set forth below.

- (a) **Residential Uses** - Two parking spaces for each dwelling unit (except as otherwise noted).
- (b) **Places of Public Assembly and Restaurants** - One parking space for every three seats, or where there are no seats provided, one parking space for every 200 square feet of floor area in addition to one space for each business and employee vehicle.
- (c) **Commercial or Light Industrial Uses** - One parking space for every business and employee vehicle plus one parking space for every 200 square feet of floor area. Parking for anticipated delivery vehicles shall also be provided.
- (d) **Industrial Uses** - One parking space for every business and employee vehicle. Parking for anticipated delivery vehicles shall also be provided.
- (e) **Home Occupation** - Two parking spaces in addition to two parking spaces for each family dwelling unit.
- (f) **Professional Offices** - One parking space for every 200 square feet of office floor area.
- (g) **Guest House, Bed and Breakfast, Lodge/Inn, Hotel/Motel** - One parking space for each room available for lodging in addition to two parking spaces for each family dwelling unit, where applicable.
- (h) **Special Requirements** - Parking spaces for any number of separate uses may be combined in one parking area, but the spaces required of one use may not be assigned to another use, except upon approval of the Board of Adjustment and the Planning Commission.

Parking area minimum requirements shall not be satisfied by the use of lands lying within a public right-of-way.

#### **4.6 Outdoor Storage of Junk**

The open storage of materials, inoperable, or retired junk vehicles, dismantled equipment and other similar items shall be screened from view from a public highway whether or not such items are used in connection with a business. Fences, walls, trees, shrubs, buildings, and land contours are acceptable means of screening outdoor storage. Maintenance of screening for the above purposes shall be a responsibility of the owner of the premises.

## **4.7 Home Occupations**

Vermont law and these Bylaws provides the right of a resident to use a minor portion of the dwelling for an occupation which is customary in a residential area and does not have an undue adverse effect on the character of the area. A Zoning Permit for a home occupation shall be granted by the Zoning Administrator upon meeting the following:

- (a) The conduct of the home occupation is clearly secondary to the residential use of the premises;
- (b) The home occupation is conducted by the resident at the residence and does not involve more than two full-time people other than the residents of the house;
- (c) Automobile traffic resulting from the home occupation is not at a volume substantially greater than would be normally anticipated; and
- (d) The floor area of the home occupation does not exceed fifty percent of the total floor area of the residence.

## **4.8 Temporary Structures**

In order to facilitate the long-term use of property, temporary structures or buildings may be erected or placed on a lot in non-compliance with the area, structural, and setback requirements of these Bylaws upon approval of the Zoning Administrator. Prior to granting a Zoning Permit for a temporary structure or building, the Zoning Administrator shall first find that its intended purpose is only temporary and that adequate assurance is established that such a structure or building will not remain on the lot for a period of more than twelve months from date of issuance of such permit.

Examples of temporary structures or buildings include construction trailers, storage vans or trailers incidental to a building project, construction fences, electrical and telephone boxes, and storage sheds.

## **4.9 Obnoxious Uses**

No land or structure shall be used or occupied in any manner so as to create obnoxious or excessive noise, smoke, dust, odors, or other forms of interference not characteristic or typical of rural living or adversely affect the reasonable use of surrounding areas or abutting properties.

## **4.10 Signs - Permit Required**

Except for signs necessary for public safety and those signs as exempted by these Bylaws, no person shall erect, display or change the location or size of an outdoor sign or lighted window sign without first obtaining a Zoning Permit from the Zoning Administrator. The purpose of this provision is to control the unplanned and uncoordinated proliferation of outdoor advertising in order to protect the economic, historic, and scenic values of the town and to prevent hazards to users of roads in town.

The following general requirements shall apply to all signs:

- (a) All signs shall be erected, displayed, or located on the same premises as the activity to which it relates, unless the sign is an official business directory sign regulated by the State of Vermont or a temporary sign giving notice of current events.
- (b) Affixed or projecting signs shall not exceed the highest point of a building to which it is attached.
- (c) Free-standing signs shall not exceed 12 feet in height above the finished grade.
- (d) Excessively bright exterior lighting, flashing lights, or similar displays where the purpose is advertising are considered signs and are prohibited. No lighted sign shall have the effect of being such a high intensity or glare as to impair the vision of the driver of a motor vehicle. Permissible lighted signs shall be lit only during the hours that the related establishment is open for business.
- (e) Large, portable or additional signs placed in or on movable vehicles are prohibited.
- (f) Neon, flashing and moving exterior signs are not allowed.
- (g) The area of a business or public building sign shall not exceed 32 square feet unless otherwise approved by the Zoning Board of Adjustment. Sign area for other signs, including professional and home occupations shall not exceed 6 square feet.
- (h) The total combined on-premise sign area of all signs on a lot shall not exceed 150 square feet, unless otherwise found by the Zoning Board of Adjustment as an undue hardship.
- (i) All signs shall be set back at least minimum setback distance or equal to the existing setback where such is non-conforming.
- (j) Every sign permitted shall be maintained in good condition and repair at all times.

#### **4.11 Signs - Exemptions**

Permits shall not be required for temporary signs or real estate signs, provided such signs conform to the requirements of this section.

- (a) No more than one temporary sign shall be permitted on a lot, nor shall the sign area exceed 6 square feet.
- (b) No more than two real estate signs shall be permitted on a lot, nor shall the sign area exceed 4 square feet.
- (c) All exempt signs shall conform with the applicable provisions of Section 4.10.

#### **4.12 Extraction of Gravel, Sand, Soil and Rock**

The commercial extraction of gravel, sand, soil and rock or the substantial change of such activities from existing operations shall require Conditional Use Approval from the Board of Adjustment. The Board, in its review of projects, shall give due consideration to the following standards.

- (a) Plans for the restoration of the disturbed portions of the site during and following the operation shall be adequate to insure that a safe, attractive, and useful condition results.
- (b) Plans for the operation of the facility shall be sufficient to insure that the operation will not adversely affect water quality, drainage patterns, or create excessive dust, traffic, vibration, and noise at the site or areas in close proximity to the site.
- (c) The operation shall be managed to prevent the creation of excessively steep slopes, overhangs, exposed boulders, uprooted stumps, and other debris.
- (d) The scale of intensity of the operation shall not place unreasonable demands on bridges, culverts, and roadways leading to and from the project site.
- (e) If power activated crushing or sorting operations are to be allowed on the site, such activity shall not unduly affect the character of the immediate neighborhood area. To insure that the rehabilitation of the site is properly managed, the Board may, as a condition to its approval, require that a performance bond or other forms of surety be posted to cover the costs of restoration or that no more than a predetermined area of the site be exposed at any one time.

The Board may, as part of an approval, attach conditions as it finds necessary to ensure the safety and general welfare of the immediate area and the general public.

#### **4.13 Division of Lots**

No lot shall be subdivided into two or more lots unless all the lots resulting from such a division conform with the applicable minimum area and building setback standards.

#### **4.14 Conservation**

To prevent soil erosion to ensure conservation of streams for recreational and other purposes, all buildings or structures erected from the effective date of these Bylaws shall be setback thirty-five (35) feet from the upper edge of the stream bank.

#### **4.15 Mobile Home Parks**

Mobile homes are permitted in approved mobile home parks subject to the requirements of this section and state law. Mobile home parks are permitted as a conditional use in the rural residential district. Mobile home parks are thus subject to review to review under Section 5 of these Bylaws. New mobile home parks and any addition or alteration to an existing mobile home park, requires conditional use approval by the Zoning Board of Adjustment. Mobile home parks shall meet with all Land, Area, and Structural Requirements for the district where they are to be located.

#### **4.16 Accessory Dwelling Units**

Accessory dwelling units shall not be larger than 1,500 square feet or 50% of the living area of the owner occupied unit, whichever is less,

An accessory dwelling unit is a permitted use in rural residential, village residential, business enterprise districts, and upland conservation district. An accessory dwelling is one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- (a) The property has sufficient wastewater capacity.
- (b) The unit does not exceed 50 percent of the total habitable floor area of the single-family dwelling.
- (c) Applicable setback, coverage, and parking requirements specified in the Bylaws are met.

#### **4.17 Wireless Communications Facilities**

No permit for the development of a wireless communication facility shall be granted by the Administrative Officer without Conditional Use Approval from the Zoning Board of Adjustment. Prior to granting such approval, the Board shall make affirmative findings for each of the following criteria in addition to the other applicable provisions set forth in these Regulations:

- (a) **Yard Requirements** - Equipment, buildings, and other structures shall conform to the minimum front, side, and rear setbacks for the district in which they are located;
- (b) **Height Limitations** - The height limit for equipment buildings or similar structures shall not exceed 35 feet. The height limit for antennae and towers in all Districts shall not exceed 90 feet above ground elevation at the base of the structure. Notwithstanding, no antennae or tower shall project more than 20 feet above the tree line immediate to the facility;
- (c) **Lighting** - No lighting shall be permitted on towers, except as may be specifically required by FAA regulations or where deemed necessary by the Board. All tower lighting incidental to the tower shall be shielded to minimize glare. To the extent reasonable, all ground lighting shall be directed downward towards the facility and not towards neighboring properties;
- (d) **Bulk, Height, and Glare** - All towers shall be constructed in such a manner as to minimize height, mass, and guy wire supports for the intended use. Materials utilized for the exterior of any structure shall be of a type, style, and location so as to minimize glare and not result in an undue adverse impact from public vantage points and abutting properties.
- (e) **Screening** - Screening shall be required at the perimeter of the site unless it can be demonstrated that natural foliage is adequate. A planted or natural vegetative screen shall be a minimum of 10 feet in depth with a minimum height of 6 feet and shall have a potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the site for the facility shall be preserved or improved. Disturbance to existing

topography shall be minimized, unless in such districts it would result in less visual impact on the facility from surrounding properties and areas;

- (f) **Collocation** - The principal of collocation shall be employed, where feasible, to minimize the number of wireless communication towers necessary to transmit or receive legally authorized signals. This shall impose a burden upon the applicant to demonstrate that there are no existing sites which are suitable to the applicants needs despite a due diligence search, and that if such facilities do exist, that they are either technically inadequate or that the owner, after a process of good faith negotiation, will not allow collocation. It shall be the burden of the applicant to perform a minimal analysis of technical feasibility. The applicant shall permit other wireless service providers to collocate on the proposed tower subject to reasonable terms and conditions. Notwithstanding, there shall be no affirmative obligation on the applicant to increase the height or width of the towers in order to accommodate the equipment or facilities of another user nor shall the applicant be required to engineer the tower to accommodate another potential user. The applicant shall provide evidence in writing on how it intends to comply with this requirement and to provide copies of any such proposed agreements; and
- (g) **Access Roads and Above Ground Utilities** - Where new wireless communication facilities require construction of or improvement to access roads, to the extent practicable, roads shall follow contour of the land. Access roads, when consistent with the purposes of this section and economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area.

The Board shall have the authority to impose conditions consistent with the purpose of this Section, including bonding or specialized studies to be conducted at the applicant's expense in approving a proposed plan for the development of a wireless communications facility. A notice of decision with conditions shall be promptly recorded or filed with the Town by the Board of Adjustment or Administrative Officer. It shall be the obligation of the permittees and subsequent assigns to remain in compliance with all conditions.

Any amendments to a prior approved wireless communications facility may be considered by the Board and shall require Conditional Use Approval from the Board when any of the following are proposed:

- (a) change in the number of facilities permitted on the site;
- (b) changes in technology used for the facility; or
- (c) addition of any equipment or additional height not specified in the original application.

#### **4.18 Height Limitations**

Except for farm structures, silos, private home antennae, belfries, steeples, cupolas, water tanks, chimneys, solar equipment, or other appurtenances not used for human occupancy, all structures

shall not exceed a height of 35 feet above average ground level unless approved by the Zoning Board of Adjustment.

#### **4.19 Home Industry**

**Statement of Purpose:** The purpose of the home industry concept is to allow for the wise use of structures on residential properties and to provide owners the opportunity to pursue alternative entrepreneurial activities in a residential setting.

**General Requirements:** Noted below are the general requirements for a home industry. A home industry is a commercial use requiring both conditional use review and site plan review. During the review process, attention shall be granted to protecting rural character and adjacent properties in the area. Applications will be denied if road conditions are considered too narrow or unsafe to accommodate additional traffic.

1. The owner of the home industry shall reside on the property.
2. No more than two on-premise employees who are not part of the owner's family are permitted.
3. Exterior displays or signs other than those permitted in the district, exterior storage of materials, and exterior indicators of the home industry or obvious variations from the residential character of the principal use shall not be permitted.
4. Parking shall be placed to the rear of the structure, where feasible or to the side of the structure. Parking shall be provided off-road and shall be adequately screened.
5. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall be prohibited.
6. Traffic shall not be generated in a greater volume or frequency than would be normally anticipated in the neighborhood so as to cause or increase unreasonable congestion or nuisance on roads, walkways, or accesses to neighboring properties.

#### **4.20 Exterior Lighting**

All lights shall be shielded so light is directed downward and not into the night sky. Lighting shall be directed towards the property and not towards neighboring properties. Lighting shall be placed to avoid glare or create a traffic hazard. Lighting shall be minimized to reflect the character of the neighborhood. Substantial changes to exterior lighting (to be determined by the Administrative Office) require site plan review for commercial or industrial uses.

#### **4.21 Outdoor Displays**

Outdoor displays of goods for sale, other than farm produce, automobiles, and farm equipment shall be prohibited, except for the displays of items located immediately in front of the establishment. No items shall obstruct public rights of way, sidewalks, or parking areas.

## 4.22 Public Use Limitations

The following uses may only be regulated with respect to size, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities and landscaping or screening requirements:

- (a) Public utility power generating plants and transmission lines.
- (b) State or community-owned and operated institutions and facilities.
- (c) Public and private schools and other educational institutions certified or licensed by the State of Vermont.
- (d) Churches, convents, and parish houses.
- (e) Public and private hospitals.
- (f) Private utilities.

If any land development, regulated by these Bylaws is also subject to Bylaws under State Statutes, the more stringent or restrictive regulation applicable shall apply.

## 4.23 Buffer Strip

If any commercial or industrial use abuts a residential property or body of water, there shall be maintained a buffer strip of land not less than ten (10) feet in depth along such common boundary excepting points of access. The strip shall be used and maintained only for a fence or natural plantings to include coniferous trees or shrubs.

## 4.24 Natural Resource Limitations

The Town Plan has identified fragile areas, critical wildlife habitat areas, and unique resource areas which deserve special attention. Land use decisions shall evaluate the immediate and long-range impact of a proposed use on these resources. Where appropriate, applicants shall consult with specialists regarding the impacts of a proposed development on these resources. Specific standards involving building development on excessively steep slopes, wetlands, and deeryards are outlined below.

- (a) **Excessively Steep Slopes** - Building development on slopes in excess of 25% grade is prohibited. Access roads across a slope exceeding 25% may be permitted provided the road itself does not have a slope in excess of 15% and that adequate erosion control measures are followed.
- (b) **Wetlands** - Wetlands identified on the Future Land Use Map shall not be drained, filled, or substantially altered to accommodate land development unless such lands are shown not to be wetlands by a qualified wetlands biologist. Development proposals involving or adjacent to an identified wetland shall provide adequate setbacks to protect water quality, groundwater supply, and flood and erosion control.

- (c) **Deeryards** - Land development located within or immediately adjacent to a deeryard mapped by the Vermont Department of Fish and Wildlife shall be designed and undertaken in a manner compatible with the continued viability of the deeryard. Applicants shall consult with the Department prior to submitting proposals and shall provide evidence of such consultations.

## **5. ADMINISTRATION, ENFORCEMENT, APPEALS**

### **5.1 Zoning Administrator**

A Zoning Administrator is hereby appointed to administer this Zoning Bylaw, as provided for in the Act. The Zoning Administrator shall literally 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 this Bylaw. The Administrative Officer should provide an applicant with forms required to obtain any municipal permit or other municipal authorization relating to the regulation by the Town of land development. If other municipal permits or authorizations are required, the administrative officer should coordinate a unified effort on behalf of the municipality in administering the development review programs. The Administrative Officer should also inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the Agency of Natural Resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

All matters involving discretion shall be referred to the Planning Commission or Zoning Board of Adjustment as appropriate.

In accordance with Sections 4464 - 4468 of the Act, an interested person may appeal the decision of the Zoning Administrator by filing notice of appeal to the Zoning Board of Adjustment. Such notice must be filed within 15 days of the date of the decision of the Zoning Administrator.

### **5.2 Planning Commission**

There is hereby established a Planning Commission, which shall consist of not less than three, nor more than nine, members appointed by the Selectboard. Any appointment to fill a vacancy shall be for the unexpired term.

The Planning Commission shall have the authority to conduct those duties established for it under Section 4325 of the Act, including preparing draft zoning bylaws, town plans and a capital budget and program and any amendments thereto. The Planning Commission shall also be charged with the administration of the procedures allocated to it by these Zoning Regulations.

### **5.3 Zoning Board of Adjustment (ZBA)**

There is hereby established a Zoning Board of Adjustment (ZBA), some or all of whose members may also be members of the Planning Commission. The Zoning Board of Adjustment shall consist of not less than three, nor more than nine, members appointed by the Selectboard for a term of three years. Any appointment to fill a vacancy shall be for the unexpired term.

The ZBA shall be charged with the proper interpretation of this Bylaw, including the following:

- (a) To hear and rule on appeals concerning any order, requirement, decision, or determination made by the Zoning Administrator or in the administration and enforcement of this Bylaw.
- (b) To hear and grant or deny a request for a waiver or variance.
- (c) To hear and approve or deny a request for a Conditional Use Approval

## **5.4 Zoning Permit**

No land development or change in use, unless specifically exempted in this Bylaw, 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 issued by the Zoning Administrator, except in conformance with this Bylaw.

### **5.4.1 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.

When Conditional Use Approval is necessary before acting on a permit, a separate application for such approval will need to be filed with the Zoning Administrator as specified in Section 8.6 below.

#### **APPLICATION SUBMITTAL STANDARDS**

- CONDITIONAL USE APPROVAL
- CLUSTERED HOUSING DEVELOPMENT APPROVAL

An application for Conditional Use Approval Site Plan Review or Planned Unit Development Approval shall include submission of the following plans and supporting documents to the Zoning Board of Adjustment or Planning commission, as appropriate.

- (a) A map showing the general location of the property within the Town and its relationship to existing public roads and highways.
- (b) A statement including the uses of adjacent property, and the names and current addresses of all owners of land immediately adjacent to and directly across all public highways from the property at issue.
- (c) A statement and/or map sufficient to demonstrate the relationship of the proposed development to adjacent land uses, both existing and proposed.
- (d) A proposed site plan, drawn to an appropriate scale, showing the location, height, spacing, uses, and architectural relationships of all buildings existing and proposed

open spaces, landscaping, utility lines, streets, driveways, off-street parking facilities, unique or manmade features and the physical conditions of the site.

- (e) In the event land development is proposed involving the condominium form of ownership, copies of the proposed Declaration of Condominium and Condominium Bylaws.
- (f) Quantitative data indicating the number and types of dwelling units and or other uses, parcel size, proposed open space not to include roads, utilities, rights of way, parking and loading areas or small inter-structural yards.
- (g) A development schedule indicating the approximate dates when construction of the project or stages of the project is expected to begin and be completed.
- (h) Existing and proposed future ownership of the property involved.
- (i) Notwithstanding the above, any additional documents and supporting information upon finding by the Planning Commission or the Zoning Board of Adjustment that such information may materially assist the Commission in its review and evaluation of the proposal.

#### **5.4.2 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 approvals (septic permit, access permit, conditional use approval, etc) and the required application fee. When an application involves a use in the Flood Protection Overlay District, an application will not be deemed complete until the Agency of Natural Resources provides comments or the 30 day comment period 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 rejected.

#### **5.4.3 Referral to State Agency Prior to Issuance**

In accordance with Section 4424 of the Act, any permit application for the development of land within the flood protection area shall be submitted to the state floodplain manager in the Agency of Natural Resources. No approval may be issued by the ZBA or permit shall be issued by the Zoning Administrator prior to either the receipt of comments or the expiration of a period of 30 days, whichever comes first, following the submittal to the Agency.

Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

#### **5.4.4 Approval or Denial of Permit**

Within 30 days of the completion of an application, and all necessary approvals, the Zoning Administrator shall either issue or deny the zoning permit.

If the permit is denied, the Zoning Administrator shall notify the applicant in writing, stating the reasons for denial, and the procedure for appeal. If the Zoning Administrator fails to act within 30 days, a permit shall be deemed issued on the 31st day.

#### **5.4.5 Effective Date of Zoning Permit**

Zoning permits shall not take effect until 15 days after issuance by the Zoning Administrator, or in the event that a notice of appeal is properly filed in accordance with the Act, such permit shall not take effect until final adjudication of said appeal.

Each permit or notice of permit issued under this section shall contain a statement of the period of time within which an appeal may be taken.

Within 3 days following the issuance of a permit, the Zoning Administrator shall:

- (a) deliver a copy of the permit to the listers of the municipality,
- (b) post a copy of the permit at the Town Office until the time for appeal in has passed;

Within 3 days following the issuance of a permit, the applicant shall post a copy of the notice of permit on a form prescribed by the Planning Commission within view from the public right-of-way most nearly adjacent to the subject property. The Zoning Administrator shall monitor compliance with this provision.

After the 15-day appeal period has closed, but within 30 days after a zoning permit has been issued, the Zoning Administrator shall deliver the original or a legible copy of the notice of permit to the Town Clerk for recording in the town's land records on a form and in a manner as provided in section 1154 of the Act; who shall then also file a copy of the effective zoning permit, along with any necessary approvals, conditions, maps or drawings in the Town Office where all municipal land use permits shall be kept.

The Town Clerk may charge the applicant for the cost of the recording fees as required by law.

#### **5.4.6 Appeal of Zoning Administrator's Actions or Zoning Permit**

An interested person as defined §4465 of the Act may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the secretary of the ZBA, or with the Town Clerk if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator.

The ZBA shall conduct a hearing of the appeal, as provided in §4465-69 of the Act. The ZBA shall render its decision within 45 days after completing the final hearing. The decision shall include findings of fact setting forth its basis. Failure to render a decision within the 45 days noted above will result in an automatic granting of the appeal. Copies of the decision will be promptly mailed to the applicant and appellant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Zoning Administrator and the Town Clerk.

Appeals of ZBA decisions must be made to the Environmental Court in accord with section 4471 of the Act.

#### **5.4.7 Expiration of Zoning Permit**

A zoning permit shall expire two years after the date it was issued by the Zoning Administrator,

### **5.5 Discontinuance and Abandonment**

If a non-conforming use is discontinued, or any structure abandoned, for a period of 24 consecutive months, it shall be deemed discontinued or abandoned. A discontinued use shall not resume or an abandoned structure be used, except subject to the provisions of this Bylaw as if it was a new development. Where the Zoning Administrator determines that discontinuance or abandonment has taken place, the burden of proof shall be on the owner to prove otherwise.

### **5.6 Non-Conforming Uses and Non-Complying Structures**

A use made non-conforming or a structure made non-complying by enactment of these Bylaws, or an amendment thereto, may be continued, subject to the following conditions:

- (a) A non-conforming use or structure may be changed to another non-conforming use upon approval of the Board of Adjustment, but only if the Board finds that the degree of non-conformity of the new use is not greater than that of the original non-conforming use.
- (b) A non-complying structure may be extended within the boundary lines of parcel or lot existing on the effective date of these Bylaws, upon approval of the Zoning Board of Adjustment and the issuance of a zoning permit by the Zoning Administrator, provided that the extension shall not cause the use or structure to become in violation of any parking, unloading, required setback, lot area, coverage, building height, access road, or other requirements of these Bylaws. Where a building has less than the required front setback, additions that are lateral to the existing structure may be permitted so long as they become no closer to the road than the original structure, and provided that pre-existing non-conforming side and rear setback requirements are not reduced.
- (c) When a non-conforming use has been discontinued for a period of 2 years, it shall not thereafter be re-established unless approved as a conditional use by the Zoning Board of adjustment

- (d) A non-complying structure which has been damaged or destroyed by any cause may be reconstructed to its prior condition with the approval of the Zoning Administrator if such reconstruction is sought within two years of the damage or construction. Beyond two years approval must be sought as a conditional use by the Zoning Board of Adjustment.

## **5.7 Pre-Existing Violations**

Adoption of this Bylaw has no effect on uses or structures that were in violation of previous regulations, which shall remain as violations, unless they meet all of the provisions of this Bylaw.

## **5.8 Conditional Use Approval**

Development requiring Conditional Use Approval must receive such approval before a zoning permit may be granted. As its name implies, Conditional Use Approval will entail written conditions on development in order to achieve certain goals. The ZBA shall prepare written findings of fact with each decision setting forth reasons for approval, approval with Conditions, or denial, addressing each of the standards relevant to the proposed development. Such conditions shall be attached to the zoning permit for the properties seeking approval.

### **5.8.1 Application for Conditional Use Approval**

Applications for Conditional Use Approval must be made to the Zoning Administrator who shall receive applications for these approvals and transmit them to the Zoning Board of Adjustment for action. Applications shall be accompanied by such materials as determined by the ZBA, and fees determined by the Selectboard. The Zoning Board of Adjustment shall deem when an application is complete. When additional information is requested from the applicant in order to consider the permit application complete and such information is not presented within 60 days, the application will be deemed rejected.

### **5.8.2 Hearing for Conditional Use Approval**

At least one public hearing is required prior to approval of a conditional use. See Section 5.9 for proper notice.

### **5.8.3 Provision for Independent Consultants**

To assist the ZBA in its review of technical issues in applications under this section, it may, after consultation with the applicant, retain consultants and require the applicant to pay the reasonable cost of their services. Any or all final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

#### **5.8.4 Approval or Denial**

The ZBA must grant or deny the application for Conditional Use Approval within 45 days of the final hearing or approval will be automatically given on the 46<sup>th</sup> day. Copies of the decision will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Zoning Administrator and the Town Clerk.

#### **5.8.5 Expiration of Approval for Conditional Use Approval**

Any Conditional Use Approval granted under this Bylaw shall expire two (2) years from the date of the written decision granting such approval unless a zoning permit has been issued by the Zoning Administrator for the approved project.

#### **5.8.6 Appeal for Conditional Use Approval**

The approval or denial of a conditional use approval by the ZBA may be appealed to the Environmental Court in a manner as specified in Section 4471 of the Act.

### **5.9 Variances**

#### **5.9.1 Appeal for Variance**

When approval or a permit for a use has been denied, an applicant may appeal this denial and apply for a variance, which will allow the use. A variance is not a form of relief, but rather a process that takes into account individual factors that may have precluded the issuance of a permit under the more standard permitting or approval processes. Except as specified in Section §4469(b) of the Act for renewable energy structures, variances may only be granted by the ZBA upon a written finding that ALL of the following facts are true:

- (a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of this bylaw in the neighborhood or district in which the property is located.
- (b) That because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (c) That the unnecessary hardship has not been created by the appellant.
- (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
- (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

For variances in the Flood Protection 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.

In rendering a decision in favor of an appellant under this section, the ZBA may attach such conditions to such variance as it may consider necessary and appropriate under the circumstances to implement the purposes of the Act and the Town Plan. The ZBA must grant or deny the variance within 45 days of the final hearing or approval will be automatically given on the 46<sup>th</sup> day. Copies of the decision will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Zoning Administrator and the Town Clerk.

### **5.9.2 Expiration of Variance**

Any variance granted under this Bylaw shall expire two (2) years from the date of the written decision granting such approval unless a zoning permit has been issued by the Zoning Administrator for the approved project.

### **5.9.3 Appeal of Variance or Waiver**

The approval or denial of a variance or waiver by the ZBA may be appealed to the Environmental Court in a manner as specified in Section 4471 of the Act.

## **5.10 Notice of Public Hearings**

At least one warned public hearing shall be required for conditional use approval, variances, Zoning Administrator appeals, site plan review, and final plat review for subdivisions. Notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all the following:

- (a) Publication by the Zoning Administrator in a newspaper of general circulation in the Town of the date, place, and purpose of the hearing; and that participation in the hearing is a prerequisite to the right to take any subsequent appeal.
- (b) Posting of the same information by the Zoning Administrator in three or more public places within the municipality, including at least the Town Office, Stockbridge Post Office, Gaysville Post Office,
- (c) and posting by the applicant on a form provided by the Town within view from the public right-of-way most nearly adjacent to the property for which an application is made. Such outdoors posting shall be of a form as prescribed by the Zoning Board of Adjustment, and if within the Town right-of-way shall be posted no closer than 7 feet to the traveled surface. Posting on private property outside the right-of-way requires landowner permission.
- (d) Written notification by the Zoning Administrator by first class mail to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the

proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the hearing is a prerequisite to the right to take any subsequent appeal.

- (e) Written notification to any relevant neighboring town's clerk, as described in (c) above, if the proposed subdivision is within 500 feet of that town.

A record of such above notices is required, whether undertaken by the Zoning Administrator or the applicant, and shall include a copy of the newspaper notice and a signed certification as to the postings. Proof of the mailings may be either by certified mail, return receipt requested, written notice hand-delivered, or a sworn certificate of service of first class mailing. Costs for all notices will be paid by the applicant.

If additional hearings are needed for additional information, the first hearing may be recessed to a later date and time specified at the first hearing without requiring new notice. If the first hearing is closed and any additional hearings are needed, the notice requirements above apply.

## **5.11 Violations and Enforcement**

### **5.11.1 Violations**

The commencement or continuation of any land development, subdivision or land use which is not in conformance with any provision of this Bylaw shall constitute a violation. Attempts to circumvent the provisions of this Bylaw through conveyances or transactions not "at arms length" (such as partially or wholly owned corporations or transactions in collusion), shall void any permits.

### **5.11.2 Notice of Violation**

Pursuant to §4451-4454 of the Act, no legal enforcement action may be brought by the Town under this Section unless the alleged offender has had at least seven (7) days written notice by Certified Mail from the Zoning Administrator. The seven-day warning notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. In the case of violations in the Flood Protection Overlay District the seven-day warning notice shall also state that failure to cure may result in loss of flood insurance,

A copy of the warning shall be sent to the Chairs of the Selectboard, Planning Commission, and ZBA and placed in that property's permit file.

Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of this Bylaw after the seven (7) day notice period and within the next succeeding twelve (12) months.

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.

### **5.11.3 Enforcement and Fines**

The Zoning Administrator shall initiate the appropriate legal action in the name of the Town of Stockbridge to enforce the provisions of this Bylaw, but shall not incur costs without the approval of the Selectboard. In the prosecution of alleged offenders through the Environmental Court, the Zoning Administrator shall first consult with the Selectboard and legal counsel, as necessary. The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act.

Any person who violates this Bylaw shall be fined not more \$100 for each offense. Each day that a violation is continued shall constitute a separate offense. In default of payment of the fine, such person shall pay double the amount of such fine. All fines imposed by the Court and collected for violations shall be paid to the Town.

### **5.11.4 Planning Commission - Appeals**

Appeals from the decisions of the Planning Commission shall be in the same manner as provided for appeals from a decision of a Board of Adjustment. All appeals shall be to the Vermont Environmental Court in accordance 24 V.S.A. Section 4471 and related statutes and rules.

### **5.11.5 Site Plan Approval**

- (a) No zoning permit shall be issued by the Administrative Officer for any commercial, industrial, public and quasi-public use or multi-family dwelling (three (3) units or more) until the Planning Commission grants site plan approval. Where site plan approval is required, such approval must be obtained prior to any action being considered by the Zoning Board of Adjustment or Administrative Officer, except as provided in Subsection D.
- (b) In considering its action, the Planning Commission shall review the application information required under Section 5.41, taking into consideration the following objectives:

1. The maximum safety of vehicular and pedestrian circulation between the site and street network and adjacent traffic generators.
  2. The adequacy and safety of circulation, parking and loading facilities.
  3. Adequacy of landscaping, screening, and setbacks in regard to achieving maximum compatibility and protection of adjacent properties.
  4. The avoidance of glare.
  5. The adequacy of surface drainage facilities.
  6. The protection of the utilization of renewable resources and natural resources.
  7. The provision of municipal services.
- (c) The Planning Commission shall conform to the requirements of Section 4416 of the Act before acting on any application and shall impose appropriate conditions and safeguards only with respect to the above objectives, such conditions to include, but not be limited to, the following:
1. May limit the number and nature of access points to a site from adjacent public highways.
  2. May require fencing and/or plantings to screen outdoor lighting, outdoor storage areas and driveways, and parking from adjacent residential properties.
  3. May require installation of surface drainage facilities to mitigate and control the runoff from parking areas and hard surfaces.
- (d) If a conditional use requires Site Plan Approval, the Planning Commission may coordinate its review process with the ZBA and arrange concurrent meetings with the applicant, if possible, within the specific limits for each review as established herein.

## 6. DEFINITIONS

For the purposes of these Bylaws, meanings of the following words and terms shall be interpreted as defined below and all other words shall be presumed to have their normal meaning, unless such meaning runs counter to the purposes and objectives of these Bylaws or the Town Plan. The definitions of terms defined in Section 4303 of the Act, and not otherwise defined herein are made a part of these Bylaws.

**ABANDONED STRUCTURE:** Means a structure that is uninhabited and uninhabitable for two or more years.

**ACCESSORY STRUCTURE OR USE:** A building or use customarily incidental and subordinate to the principal building or use located on the same lot.

**ACCESSORY DWELLING UNIT:** An accessory dwelling is one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. "Appurtenant" means located within the area designated as a under VSA Title 32 and is a structure "incidental or subordinate to the primary dwelling." An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation

**AFFORDABLE HOUSING:** Housing that is owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or

- Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. 24 V.S.A. § 4303(1) (A).

**Low Income Housing:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**Moderate Income Housing:** Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

**AUTO SERVICE STATION:** Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles, and which may include facilities used or designed to be used for polishing,

greasing, washing, spraying, dry cleaning, or otherwise servicing or cleaning such motor vehicles.

**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.

**BUILDING HEIGHT:** Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**DETACHED APARTMENT:** An apartment in an accessory structure and not attached to the main structure.

**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.

**DWELLING UNIT:** Any building or portion thereof, designed or used exclusively as living quarters for one family, other than motels, hotels, tourist homes, clubs, schools, hospitals, or similar use.

**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).

**FAA:** Federal Aviation Administration

**FAMILY CHILD CARE HOME OR FACILITY:** Means a home or facility where the owner or operator is to be licensed or registered by the state for child care.

**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.

**FRONT SETBACK:** The distance from the centerline of any highway or road right-of-way to the nearest part of any building or structure.

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

**HOME INDUSTRY:** Any small industrial or service type of operation carried out in the home under the conditions established by these Bylaws.

**HOME OCCUPATION:** Accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the dwelling used for living purposes and which does not change the character thereof, i.e., beauty parlor, small engine repair, radio and TV repair, saw sharpening shop, drafting office.

**HOTEL:** Building usually several stories, containing rooms which are rented as a series of sleeping units for transients.

**LODGING HOUSE:** A building in which three or more separate units are rented with or without meals. A boarding, tourist, or rooming house shall be deemed a lodging house.

**LOT:** A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law; to be used, developed or built upon as a unit, which is not divided by a public highway as defined by 19 V.S.A., Section 1.

**LOT AREA:** The total area within the property lines of a lot, excluding public streets, roads and road right-of-ways, and meeting the district requirements of these Bylaws, and within the municipal boundaries.

**LOT FRONTAGE:** That portion of a lot which is adjacent and parallel to a public highway as defined by 19 V.S.A., Section 1 or a private way as approved by the Planning Commission pursuant to Section 3.2.

**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.

**MOBILE HOME:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

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

**MOBILE HOME PARK:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of

employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

**MODULAR (OR PREFABRICATED HOUSING):** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MOTEL/HOTEL:** Building containing rooms with separate or joint entrances which are rented as a series of sleeping units, normally for vehicular transients, each sleeping unit consisting of at least a bedroom and bathroom.

**MULTI-FAMILY DWELLING:** A building containing three or more individual dwellings with separate cooking and toilet facilities for each dwelling. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi family dwelling and shall be subject to conditional use and site plan review.

**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.

**NEIGHBORHOOD COMMERCIAL FACILITY:** Any commercial facility such as a grocery, general, newspaper, drug store, or retail service establishment intended principally to serve the neighborhood in which it is located.

**NON-CONFORMING STRUCTURE:** A structure or part thereof not in conformance with the zoning Bylaws covering building bulk, dimensions, height, area, yards, density or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and Bylaws prior to enactment of such Bylaws.

**NON-CONFORMING USE:** A use of land or a structure which does not comply with all zoning Bylaws where such use conformed to all applicable laws, ordinances and Bylaws prior to the enactment of such Bylaws.

**OFFICE:** Place where the financial, administrative, or management functions of a commercial, industrial, service, or professional individual or organization are transacted. Includes structures and uses normally associated with “office operations” as understood and applied in current popular usage.

**PARKING SPACE:** A defined space which is at least ten feet wide and twenty feet long outside of the right-of-way or driveway used for the parking of one motor vehicle which affords

practical access to the road or right-of-way and graveled or paved sufficiently to permit year-round use.

**PERSONAL SERVICE:** Includes barber, hairdresser, beauty parlor, shoe repair, laundry, Laundromat, dry cleaner, photographic studio, and businesses providing similar service of a personal nature.

**PUBLIC BUILDING OR USES:** A building owned by a municipality, county, state, or federal government or a quasi-public building that is property tax exempt, such as church, private school, medical clinic, hospital, library or museum.

**REAR SETBACK:** The distance from the rear lot line to the nearest part of any building or structure.

**RECREATION FACILITY, OUTDOOR PUBLIC OR PRIVATE:** Includes sports club, golf course, trap, skeet, and archer ranges, swimming pool, skating rink, riding stable, park, swimming area, tennis court, recreation stadium, skiing facilities, licensed seasonal camps, and similar places of private outdoor recreation. Includes publicly owned and operated playgrounds, playfields, parks, open spaces, swimming pools, and other similar places of publicly owned outdoor recreation.

**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.

**RETAIL STORE:** Includes enclosed restaurant, shop, and store for the sale of retail goods, personal service shop, and department store, and shall exclude any drive-in services, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

**SIDE SETBACK:** The distance from the side lot line to the nearest part of any building or structure.

**SIGN:** Any surface, fabric, device or display which bears letter, pictorial or sculptured matter, designed to convey information visually and which is exposed to public view. The term shall include all structural members and related elements composed to form a single unit.

**SINGLE FAMILY DWELLING:** A building containing one dwelling unit. A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home.

**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.

**Outside of the Special flood hazard area structure** shall mean an assembly of materials with fixed location on or below the ground, or attached to an object having an affixed location on the ground including, but not limited to, towers, dish antennae, but excluding mailboxes, fences, roads or driveways, and underground utilities.

**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 ~~cumulatively~~ equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code 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”.

**TOWER:** A structure more than 30 feet in height above the ground elevation built for the purpose of supporting, elevating, or placement of antennas for broadcast services or wireless services.

**TWO FAMILY DWELLING:** A building containing two dwelling units.

**VANTAGE POINT:** A point located on a public highway or public water body in Stockbridge from which a proposed wireless communication facility will be visible.

**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.

**WIRELESS COMMUNICATION FACILITY:** A tower, pole, antenna, guy wire, or related fixture intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmissions/reception; the construction or improvement of a road, trail, building, or structure incidental to a telecommunications facility.

## **7. CLUSTERED HOUSING DEVELOPMENT**

### **7.1 General Intent and Purposes**

The provisions for Clustered Housing Development (CHD) set forth below are intended to permit the development of larger parcels of land in such a manner as will result in the most efficient, aesthetic, and desirable use of such parcels; encourage a more creative approach to the development of such parcels than would otherwise result under these Bylaws; and to provide flexibility in the design and placement of buildings, open spaces, vehicular and pedestrian circulation and off-street parking areas so as to best utilize the features of the specific site.

In order to encourage innovation in design and layout and promote the efficient use of land, the Planning Commission may grant Clustered Housing Development approval for proposals subject to the standards and conditions set forth below.

### **7.2 Clustered Housing Development Approval - Standards and Conditions**

In its review and approval of a proposed Clustered Housing Development, the Planning Commission shall find in its written decision that the Project meets all of the following criteria and standards:

- (a) The application submitted satisfies all the requirements for submission of a Clustered Housing Development application as identified by the Planning Commission.
- (b) The parcel size of the proposed Clustered Housing Development meets the minimum area requirements set forth below:

Village Residential	2 acres
Rural Residential	5 acres
Upland Conservation	40 acres
- (c) The setback requirements, as determined for the project in its entirety, and for any and all buildings, structures, or lot lines within the project, comply with all applicable setback requirements.
- (d) The total number of dwelling units and other uses shall not exceed the number or densities which would be permitted in the Planning Commission's judgment if the involved land were subdivided into lots in conformance with the Bylaws.
- (e) Density Bonus - Notwithstanding the above, in order to encourage the most appropriate and efficient use of the involved land, the total number of dwelling units and other uses may be exceeded by up to twenty-five percent (25%). In granting any such requested density increase, the Commission shall find that:
  - The character and siting variations incorporated in the project consists of factors which make a substantial contribution to the general intent and purposes of the CHD provision.

- Such variation are appropriate based upon, but not limited to, the following project amenities: (i) siting, visual focal points, use of existing physical features such as topography, building orientation, variation in building groups such as clusters; (ii) design features, architectural styles, harmonious use of building materials, landscaping, and pedestrian ways; and (iii) extent and location of open space reservation relative total project area, proposed plans for use and management of such area, and the degree of preservation of natural features for any unimproved areas.
- (f) The design and layout of the project preserves any recognized historic sites or structures and to the greatest extent feasible any natural features or resources of the site.
- (g) Adequate conditions and technical plans exist to insure the safe treatment of sewage and the provisions of a safe supply of drinking water for the project.
- (h) If the proposal involves a greater concentration of land uses within some section of the development than upon others, such greater concentration shall be offset by a lesser concentration in other section or sections or by an appropriate reservation of common open spaces on the remaining lands.
- (i) To encourage maintenance or enhancement of forest resources, wildfire habitats, and critical resource areas for which the project has been designed so areas of the total parcel are permanently set aside as undevelopable and or the purposes set forth above.

### **7.3 Clustered Housing Development - General Procedures**

The Planning Commission welcomes all to preliminary discussions about this development option. It invites prospective applicants to meet informally with the Commission to learn how their project might be structured.

- (a) Upon receipt of an application for Clustered Housing Development Approval, the Commission shall ascertain if the application is complete.
- (b) A request for Clustered Housing Development Approval shall be scheduled for a least one Public Hearing held by the Planning Commission within 30 days from the date of acceptance of the completed application. All procedures as set forth in 24 V.S.A. Section 4407 (3) shall apply also.
- (c) Land development for which Approval has been granted shall not commence unless the Administrative Officer has issued a Permit for such development.
- (d) The Planning Commission may attach such reasonable conditions to its approval of a Clustered Housing Development as it finds necessary to further the purposes of these Bylaws and 24 V.S.A. Chapter 117.
- (e) The Planning Commission shall act to approve or disapproval a proposal by written decision within sixty (60) days from the date of the final public hearing.
- (f) In the event that substantial construction has not been undertaken within two years from approval, this provision shall have no further effect and any subsequent applications for zoning permits shall be considered untimely.