

VERSHIRE DEVELOPMENT ORDINANCE

**Adopted February 2, 1994
Amended August 26, 1997
Amended March 6, 2001
Amended March 6, 2008**

**Town of Vershire
Planning Commission**

**Professional Assistance Provided by:
Two Rivers-Ottauquechee Regional Commission
Woodstock, Vermont 05091**

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1. GENERAL OVERVIEW

1.1 Purpose

It is the purpose of this Ordinance to implement the Vershire Town Plan by providing for the appropriate use of all lands in the Town of Vershire 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, critical wildlife habitats, 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 Vermont Planning and Development Act herein referred to as the "Act".

1.2 Application of This Ordinance

Except as may have been previously approved under a prior Ordinance or exempted under this Ordinance, no land, building, or structure shall be used, occupied, or changed, or land subdivided unless in conformity with this Ordinance.

1.3 Effective Date

This Ordinance or any amendments thereto, shall become effective upon date of its adoption by a vote of the Town by Australian Ballot at a regular or special Town meeting.

1.4 Amendment or Repeal

Any amendment, repeal of sections or revision to this Ordinance shall be undertaken in accordance with 24 V.S.A. Section 4442.

1.5 Separability

Invalidity of any section or provision of this Ordinance determined by a court to be invalid shall not affect the validity of the Ordinance as a whole or any other part of this Ordinance.

1.6 Enactment

Whereas the Town of Vershire, Vermont has created a Planning Commission and has adopted and has in effect a Municipal Plan, there is hereby established a Development Ordinance for the Town of Vershire.

1.7 Status Of Prior Ordinances

Upon the effective date of this Ordinance, the Town of Vershire Development Ordinance adopted February 2, 1994 and amended August 26, 1997 is hereby repealed.

1.8 Interpretation

This Ordinance is not intended to annul or in any way impair other regulations or permits previously adopted or issued. Any land development subject to regulation under this Ordinance is subject also to other Town or State regulations. In these cases, the more stringent or restrictive regulations shall apply.

1.9 Fees

Fees for the administration of this Ordinance shall be established and revised by the Selectboard in consultation with the Planning Commission. Such fees shall be sufficient to cover all necessary and reasonable costs required to administer and enforce this Ordinance.

1.10 Equal Treatment of Housing

As required under V.S.A Title 24, Ch. 117 § 4412, this Ordinance is in no way intended to have the effect of excluding Low/Moderate Income Housing, Mobile Homes, Modular Housing, Prefabricated Housing and/or Mobile Home Parks. Such types of development may be required to obtain a conditional use permit.

2. GENERAL LAND USE STANDARDS

2.1 Land Use Permit Required

Except as provided herein, no construction, conversion, relocation, or enlargement of any building or structure, nor any mining, extraction or landfill, nor any change in the use of any building or structure, or land, or extension of use of land, or land subdivision may commence unless a Development Permit has been duly issued by the Development Administrator. Development Permits are not required for maintenance or repair of existing uses of land, buildings, or structures, or interior alterations or renovations, provided the use of the building or structure remains substantially unchanged. Prospective applicants for Development Permits may obtain application materials from the Town Offices or Development Administrator during regular office hours.

2.2 Inspections

The Development Administrator, being duly authorized to enforce this Ordinance, is empowered to enter upon land or any building for the purpose of assuring that any land development, as defined or approved, is in compliance with the requirements of this Ordinance and any Development Permit that may have been granted.

Prior to entry on private property, the Development Administrator shall obtain permission from the owner of record and any other involved party of interest.

2.3 Permit Exemptions

Development Permits shall not be required for the following:

- (a) Normal maintenance and repair of an existing structure that does not result in any change to the footprint or height of the structure, or change in use;
- (b) Public auctions, garage sales, and yard sales not exceeding four consecutive days nor more than ten days in a calendar year;
- (c) Reconstruction of a non-conforming structure, or resumption of a non-conforming uses (see Section 5.16);
- (d) Accepted agricultural and forestry practices (as established by the Secretary of Agriculture under V.S.A. Title 6, Subchapter 1), including the construction of farm structures (see Sections 3.4-3.6 for setback requirements);
- (e) Small or temporary Signs (see Section 4.7);
- (f) Utility poles and related fixtures not exceeding 35 feet in height;
- (g) Fuel and propane tanks not used for commercial purposes;
- (h) Ponds or impoundments of less than 100,000 cubic feet (provided setback requirements are met. See Sections 3.4-3.6);
- (i) Construction of a driveway or private road (except see Section 4.4 for access permits);
- (j) Drainage facilities or similar work (see Section 4.3);

- (k) Fences and walls not exceeding 8 feet in height;
- (l) Accessory buildings or structures with a floor area not more than 100 square feet and less than 35 feet in height;
- (m) Subdivision of land parcels incidental to title transfers between non-affiliated owners for the purpose of establishing clear property line boundaries not exceeding 10,000 square feet; and
- (n) Home occupations (see Section 4.12).

2.4 Construction Approved or Commenced Prior to Adoption or Amendment

No Development 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 this Ordinance, provided such construction is completed within one (1) year from the date of such adoption of amendment. Nothing contained in this Ordinance shall require any change in plans or construction of a structure for which a Development Permit has been issued and which has been substantially completed within one (1) year from the effective date of this Ordinance.

2.5 Existing Land Parcels

No person shall alter, modify, or extend an existing parcel without complying with this Ordinance.

An existing parcel means:

- (a) A parcel of record prior to the effective date of this Ordinance;
- (b) A parcel which was the result of land subdivision approved by the Town pursuant to the Vershire Development Ordinance or prior Ordinances and the final plat thereof properly recorded with the Town Clerk prior to the effective date of this Ordinance; or
- (c) A parcel otherwise exempt from this Ordinance.

2.6 Existing Small Lots

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of this Ordinance or prior Ordinances may be developed for the purposes permitted under this Ordinance, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth of forty feet. Nothing in this section shall be construed so as to prevent the sale or transfer of such a lot.

2.7 Required Frontage On or Access to Public Roads

As required by Vermont law, land development must have frontage on a public road or access to such a road by permanent easement or right-of-way at least 20 feet in width. In the event that a lot does not have frontage on a public road, a permit request shall be submitted to the

Planning Commission. If evidence leads the Commission to find that permanent access to a public road exists, it shall grant an approval.

2.8 Prohibited Land Use Activities

Notwithstanding other provisions of this Ordinance, the following land use activities are specifically prohibited:

- (a) Dumping, disposing, storing of trash, garbage, hazardous or solid waste as defined under 10 V.S.A. Section 6602, unless such a facility is certified by the Vermont Agency of Natural Resources;
- (b) Commercial junkyards or scrap metal yards;
- (c) Commercial slaughter houses larger than 2000 square feet of enclosed floor area;
- (d) Bulk chemical storage facilities.

3. SPECIFIC LAND USE REQUIREMENTS

3.1 Development Areas

The following development areas are hereby established within the Town:

- (a) Village Development Area
- (b) Rural Residential Development Area
- (c) Open Space Development Area
- (d) Flood Hazard Development Area

3.2 Official Base Development Area Map

The location and boundaries of base development districts, are established as shown on the Official Base Development Area Map maintained at the Vershire Town Office. The Official Development Area Map, together with interpretive guidelines and all amendments thereto, is hereby made part of this Ordinance. All amendments to the Official Development Area Map are subject to the provisions of this Ordinance regarding amendments.

3.3 Interpretation of Development Area Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Development Area Map, the location of such boundaries shall be determined by the Development Administrator. The decisions of the Development Administrator may be appealed by the application or interested parties to the Board of Adjustment for action.

3.4 Village Development Area

Purpose: The purpose of the Vershire Village Development Area is to support and encourage the development of retail and commercial uses, offices and community facilities, within the Village of Vershire. It is intended that development that occurs within this area be planned to protect streambanks, scenic quality, village feel and to harmonize with the river.

Description: The Vershire Village Development Area includes areas historically considered the Vershire Village. The Area is aligned with route 113, extending East-West between Durgin Hill and Eagle Hollow Rd.

Permitted Uses

The following uses are permitted within the Village Development Area upon issuance of a Development Permit from Development Administrator:

- (a) One Single or Two Family Dwelling on a Lot
- (b) Conversion of Single Family Dwelling to a Two Family Dwelling
- (c) Alteration To An Existing Structure (See Section 6)

- (d) Accessory Structure or Use
- (e) Signs (see Sections 4.5 and 4.6)
- (f) Accessory Dwellings (see Section 4.8)
- (g) Outdoor Recreation Facility
- (h) Office (less than 2000 square feet in area)
- (i) Minor Subdivision (see Section 4.17)

Conditional Uses

All other uses are permitted upon granting of Conditional Use Approval by the Board of Adjustment and the issuance of a Development Permit from the Development Administrator. See Section 6.2 for definition of Conditional Use.

Land, Area and Structural Requirements

- (a) The minimum lot area for all within this Development Area is 1 acre.
- (b) The Minimum setback for structures within this Development Area is 10 feet.
- (c) Minimum setback from streams (see section 4.7) is 35 feet.
- (d) Maximum height for structures (see section 4.9) is 35 feet.

There are no setback requirements for fences or driveways.

3.5 Rural Residential Development Area

Purpose: The purpose of the Rural Residential Development Area is to provide a location for housing and camps, agriculture and forestry, home based and small businesses. Development within this Area should be planned as to fit within the rural character of the surrounding area.

Description: The Rural Residential Development Area includes all lands in Vershire that are not within the Village, Flood Hazard or Open Space Development Areas.

Permitted Uses

The following uses are permitted within the Village Development Area upon issuance of a Development Permit from Development Administrator:

- (a) One Single or Two Family Dwelling on a Lot
- (b) Conversion of Single Family Dwelling to a Two Family Dwelling
- (c) Alteration To An Existing Structure (See Section 6)
- (d) Accessory Structure or Use
- (e) Signs (see Sections 4.5 and 4.6)
- (f) Accessory Dwellings (see Section 4.8)
- (g) Outdoor Recreation Facility
- (h) Office (less than 2000 square feet in area)
- (i) Minor Subdivision (see Section 4.17)

Conditional Uses

All other uses are permitted upon granting of Conditional Use Approval by the Board of Adjustment and the issuance of a Development Permit from the Development Administrator. See Section 6.2 for definition of Conditional Use.

Land, Area and Structural Requirements

- (a) The minimum lot area for all within this Development Area is 2 acres.
- (b) The Minimum setback for structures within this Development Area is 20 feet.
- (c) Minimum setback from streams (see section 4.7) is 35 feet.
- (d) Maximum height for structures (see section 4.9) is 35 feet.

There are no setback requirements for fences or driveways.

3.6 Open Space Development Area

Purpose: The purpose of the Open Space Development Area is to allow for the appropriate development of Seasonal camps, single family homes, outdoor recreational facilities and forestry operations, while protecting the unique natural character of the Area.

Description: The Open Space Development Areas cover lands that are primarily large areas of undisturbed and undeveloped land known to be favorable wildlife habitat, contain substantial wetlands and ridge tops in public view, and have large areas with steep slopes. The Areas are located around Eagle Hollow and Patterson Mountain.

Permitted Uses

The following uses are permitted within the Village Development Area upon issuance of a Development Permit from Development Administrator:

- (a) One Single or Two Family Dwelling on a Lot
- (b) Conversion of Single Family Dwelling to a Two Family Dwelling
- (c) Alteration To An Existing Structure (See Section 6)
- (d) Accessory Structure or Use
- (e) Signs (see Sections 4.5 and 4.6)
- (f) Accessory Dwellings (see Section 4.8)
- (g) Outdoor Recreation Facility
- (h) Office (less than 2000 square feet in area)

Conditional Uses

- (a) Minor Subdivision (see Section 4.17)

All other uses, are permitted upon granting of Conditional Use Approval by the Board of Adjustment and the issuance of a Development Permit from the Development Administrator. See Section 6.2 for definition of Conditional Use.

Prohibited Uses

The following uses are prohibited within the Open Space Development Area:

- (a) Industrial (excluding logging related industries)
- (b) Commercial or light industrial uses over 2000 square feet in area.

Land, Area and Structural Requirements

- (a) The minimum lot area for all within this Development Area is 10 acres.
- (b) The Minimum setback for structures within this Development Area is 50 feet.
- (c) Minimum setback from streams (see section 4.7) is 50 feet.
- (d) Maximum height for structures (see section 4.9) is 35 feet.

There are no setback requirements for fences or driveways.

3.7 Flood Hazard Area

The rules and regulations governing the Flood Hazard Area are outlined in Vershire's stand alone Flood Hazard Bylaw. A copy of that ordinance is available for review at the Vershire Town Office.

3.8 Major Land Subdivisions - Approval Required

Before any construction, land clearing, or building development incidental to a major subdivision is commenced, before any offer or contract for sale, or sale of any part, division or reconfiguration of an existing parcel or lot is exercised, before any Development Permit for a structure or use is granted within a proposed major subdivision, or before any plat is recorded or filed with the Town Clerk, the owner of the existing parcel or lot shall first apply for and secure final approval of the proposed major subdivision from the Planning Commission. All actions of the Planning Commission shall be in accordance with the procedures, terms, and conditions set forth in Section 4.19 and applicable State statutes.

4. STANDARDS APPLYING TO ALL LAND DEVELOPMENT

The standards listed below apply to all proposed land developments. Such developments shall be reviewed for compliance with these standards prior to action by taken to grant or deny a Development Permit. Notwithstanding the above, some of these standards may not relate to a proposed land development.

4.1 Sewage Disposal

An applicant for a Development Permit, whose land requires a Subdivision Permit from the Protection Division of the Agency of Natural Resources, shall obtain such Permit or Deferral of Permit prior to the issuance of a Development Permit. A copy of such Permit shall be submitted as part of the Development Application.

In situations where a Sewer Permit is required from the Vershire Board of Health prior to the installation or replacement of a wastewater disposal system, prospective applicants for a Development Permit shall first obtain a Sewer Permit. Such permits shall be filed with the Town Clerk for recording by the applicant within 30 days of receipt.

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

4.2 Exemptions - Permit Not Required

No development permit shall be required for the following activities, however written notification to the Development Administrator of intent to build is required:

- (a) Accepted agricultural practices (AAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)]. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Development Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- (b) Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
- (c) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
- (d) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.

4.3 Access Permits and Roads

The Development Administrator, Board of Adjustment, or Planning Commission as part of the review of a proposed permitted or conditional use, or minor or major subdivision, shall determine whether or not the proposed land use development meets with this section.

Prior to any property owner or person constructing or reconstructing an access road, obstructing a ditch or drainage course, or installing or replacing a culvert within the right-of-way of a public road, a permit shall first be issued by the Selectboard in the case of a Town road or the Vermont Agency of Transportation in the case of a State road. Contact the Town Offices for more information.

All access driveways shall be located not less than 100 feet from the intersection of the right-of-way lines of intersecting roads. No access roadway shall be wider than is reasonably necessary to safely accommodate the traffic passing over it. The total number of access roads permitted on each side of a continuous length of road frontage on a parcel shall not exceed the number set forth below. In determining the number of access roads, entrances for farm or forestry purposes shall not be considered. In calculating the number of access roads permitted, any access road in existence prior to the passage of this section or constructed thereafter shall be included. These standards shall not apply to temporary access drives to a project for construction equipment and similar activities.

Continuous Road Frontage of Parcel	# of Access Roads Permitted
Less than 800 Feet	2
Between 801 and 1,600 Feet	3
Between 1,601 and 2,400 Feet	4
Between 2,401 and 3,200 Feet	5

4.4 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.
- (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.
- (d) **Industrial Uses:** One parking space for every business and employee vehicle.
- (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.

Minimum parking space requirements shall not be satisfied by the use of lands lying within a public right-of-way. Plans for parking shall include sufficient area for access to and from each parking space. A parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet long.

4.5 Signs - Permit Required

Except for signs necessary for public safety and those signs as exempted by this Ordinance, no person shall erect, display or change the location, or size of an outdoor sign without first obtaining a Development Permit from the Development 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) Neon, flashing, or moving exterior signs are prohibited.
- (f) The area of a sign shall not exceed 32 square feet per side.
- (g) The total combined on-premise sign area of all signs on a lot shall not exceed 150 square feet, unless otherwise found by the Board of Adjustment as an undue hardship.
- (h) Notwithstanding Sections 3.4-3.6, all signs may be setback at least one-half of the minimum setback distance or equal to the existing setback where such is non-conforming.
- (i) Every sign permitted shall be maintained in good condition and repair at all times.
- (j) No sign shall be permitted within the public right-of-way.

- (k) No sign shall be placed in such a fashion as to impair roadway line-of-sight.

4.6 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) Temporary signs shall be less than six (6) square feet in area.
- (b) Signs advertising agricultural products are exempt from the sign area requirement.

All exempt signs shall conform with the applicable provisions of Section 4.6.

4.7 Streambank Conservation

To prevent soil erosion, and to ensure conservation of streams for recreational and other purposes, all buildings or structures erected from the effective date of this Ordinance shall be setback thirty-five (35) feet from the upper edge of streambank of a perennial stream and fifty (50) feet from the edge of a state designated wetland.

4.8 Accessory Dwellings

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

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

4.9 Height Limitations

Except for farm structures, silos, private home antennae, private wind generation towers, 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 Development Board of Adjustment.

4.10 Buffer Strip

If any non-residential 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 wholly within non-residential property along such common boundary in addition to the prevailing setback,

excepting points of access. The strip shall be used and maintained only for a fence or natural plantings to include coniferous trees or shrubs.

4.11 Natural Resource Limitations

The Vershire Town Plan and Vermont Agency of Natural Resources maps have identified fragile areas, critical wildlife habitat areas, and unique resource areas that 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.

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.

Wetlands - Wetlands identified on the Future Land Use Map shall not be drained, filled, or substantially altered to accommodate land development. Prior to issuance of a Permit or granting of approval for land development adjacent to a wetland, the applicant shall consult with the Vermont Water Quality Division (PH: 802-241-3770). Evidence of such consultations shall be provided at the time of submittal. Findings or recommendations regarding the potential impacts of the proposed land development provided to the by the Division to the applicant shall be considered prior to final action by the Town.

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.

4.12 Home Occupations

Vermont law and this Ordinance provide 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 change the character of the area. A home occupation is exempt from the provisions of this Ordinance and a Development Permit is not required. Notwithstanding a home occupation shall meet 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;

- (d) The floor area of the home occupation does not exceed fifty percent of the total floor area of the residence; and
- (e) There are at least two off-street parking space designated on the property.

Other non-residential or business uses are not considered home occupations and shall require a Development Permit.

4.13 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 to create a traffic hazard. Lighting shall be minimized to reflect the character of the neighborhood. Substantial increases in the level of outdoor lighting for non-residential uses will require an amendment to an existing permit or a new permit.

4.14 One Principal Use on a Lot

No more than one principal use shall be permitted on a lot unless the area of such lot is of sufficient size to meet all land, area, and structural requirements of each use if they were subdivided into separate and individual lots. Where more than one principal use is being proposed on the same lot, the Board of Adjustment shall first grant Conditional Use Approval prior to issuance of a Development Permit. In granting such Approval, the Board shall find that the principal uses are in compliance with the requirements noted above. See Sections 3.4-3.6.

4.15 Division of Lots

No lot shall be subdivided unless all the lots resulting from such a division conform with the applicable minimum area and building setback standards. See Sections 3.4-3.6. All subdivisions are subject to State subdivision permit requirements (onsite septic suitability).

4.16 Land Subdivisions – Minor and Major

Unless otherwise exempted, any land subdivision after the effective date of this Ordinance shall first require approval pursuant to section four (4) of this document to ensure that all proposed lots meet with the applicable requirements of this Ordinance.

A subdivision means the dividing of a parcel of land by sale, gift, lease, mortgage foreclosure, court ordered partition, or filing of a subdivision map or a plat plan on the Town Records where the act of division results in two or more lots within the bounds of the original parcel. A subdivision shall be deemed to have occurred on the conveyance of the first lot or the filing of a plat on the Town Records, whichever shall first occur.

Minor subdivision - A minor subdivision means any subsequent partition of an existing parcel(s) where the subdivision results in two or three lots total, within the bounds of the original parcel. Prior to establishing a minor subdivision, the issuance of a Development

Permit from the Development Administrator shall first be required. See Section 4.17 for requirements.

Major subdivision - A major subdivision means any subsequent partition of an existing parcel(s) where the subdivision results in four or more lots total, within the bounds of the original parcel. Prior to establishing a major subdivision, the Planning Commission shall first grant subdivision approval. See Section 4.18 for requirements.

4.17 Minor Subdivisions – General Procedures and Review Criteria

Owners of land comprising a minor subdivision shall file an application for the subdivision with the Development Administrator. Minor subdivision application forms are available at the Town Offices. A minor subdivision shall be approved by the Development Administrator upon:

- (a) Receipt of a completed minor application form with supporting documentation from the owner. The application shall include a general site description, descriptions on any existing and proposed easements or rights of way, reference to the Book and Page number from the Town Land Records and a subdivision map; and
- (b) Determination that the proposed minor subdivision meets the land, area, and structural standards in Section 4.1, and other applicable dimensional standards in this Article.

Issuance of a Development Permit by the Development Administrator shall serve as evidence of compliance with these criteria. See Section 5.18 for administrative and recording requirements.

4.18 Major Subdivisions – General Procedures and Review Criteria

Owners of land comprising a major subdivision shall file an application for the subdivision with the Planning Commission. Application forms for a major subdivision are available at the Town Offices. To facilitate the subdivision review process, the applicant shall first request a meeting with the Planning Commission where the general aspects of the proposed subdivision shall be discussed. Such a request shall be at least 10 days prior to its next scheduled meeting. At this pre-application meeting, the Planning Commission and the applicant will discuss the preliminary information submitted relative to compliance with the Vershire Town Plan and the Town's subdivision design criteria. Within six months of the pre-application meeting, the applicant may submit an application for approval of a proposed subdivision to the Planning Commission. Information required for pre-applications and applications are outlined in Section 5.8 of this Ordinance.

General Standards - The Planning Commission shall approve the creation of lots and the placement of structures or improvements on those lots in accordance with the following general design criteria. These criteria are intended to implement the Vershire Town Plan. This Plan is intended to advance two principal planning goals: to retain Vershire's cultural, historic, rural character; and to balance future land development with the conservation of its natural resources and scenic beauty. These goals will be strongly

influenced by future land subdivision patterns. Accordingly, the Planning Commission shall consider the potential impacts of the proposed subdivision on these special features, including existing landscape patterns, natural resources, and the relationship of land use to road access.

Specific Standards - Before granting approval, the Planning Commission shall find that the design of the Major Subdivision:

- (a) Will conserve and protect to the extent reasonable existing resources such as streams, productive forest and meadow land, agricultural soils, historic structures or places, stonewalls, wildlife habitats and other natural resources;
- (b) Will reflect principles of energy conservation and recovery;
- (c) Will ensure safe and efficient movement of vehicles, including road maintenance, fire fighting, and emergency equipment;
- (d) Meets the standards of highway design set forth in the Vershire Road Policy;
- (e) Will provide off-road parking adequate to accommodate existing and proposed uses;
- (f) Will ensure that electrical power, telephone, outdoor lighting, and other utilities do not unduly degrade the visual character of the site and the immediate area;
- (g) Does have sufficient water available for the reasonable foreseeable needs of the subdivision;
- (h) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water;
- (i) Will not cause an unreasonable burden on the ability of the Town to provide fire protection and other emergency services;
- (j) Will meet applicable health and water resources regulations regarding disposal of wastes;
- (k) Will meet the land, area, and structural requirements of Section 4.1 of this Ordinance; and
- (l) Is in conformance with the goals and policies of the Vershire Town Plan.

4.19 Traffic Management

The Board or Planning Commission, as part of its review of a proposed conditional use or major land subdivision, shall determine whether or not the proposed land development meets with this section:

- (a) Capacity of the road to safely accommodate two-way traffic;
- (b) Adequacy of the road design or conditions to accommodate existing and projected traffic volumes, including heavy trucks and other large motor vehicles as well as emergency vehicles;
- (c) Sufficiency of access roads or driveways planned for the proposed structure or use;
- (d) Levels of highway maintenance and governmental costs necessary or required to reasonably accommodate the projected volumes;

- (e) Extent of adverse scenic impacts on the town highways necessitated by anticipated improvements to roads leading to and from the project (e.g., loss of roadside trees, stonewalls, and historic bridges);
- (f) Extent of and length of road grades and adequacy of site distances leading to and from the project;
- (g) Impacts on safety of pedestrians using the road leading to and from project; and
- (h) Whether or not the projected traffic volumes will materially interfere with the function and efficiency of roads leading to and from the project.

4.20 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 find that the project meets 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 or 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.

4.21 Wireless Communications Facilities

No permit for a wireless communication facility shall be granted by the Development Administrator without Conditional Use Approval from the 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 this Ordinance:

- (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 Ordinance 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 ten (10) feet in depth with a minimum height of six (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) **Co-location** - The principal of co-location 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 co-location. 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 co-locate 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 of Adjustment shall have the authority to impose conditions consistent with the purpose of this Section 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 Development Administrator. 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.

4.22 Childcare Facilities

A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in V.S.A Ch 33 § 4902(3)(A), shall be considered a permitted use. A childcare facility serving more than six full-time and four part-time children will require a conditional use permit.

5. ADMINISTRATION, ENFORCEMENT, APPEALS

5.1 Development Administrator

The Development Administrator shall be appointed for a term of three years by the Selectboard. The Development Administrator shall enforce literally the provisions of these Ordinance and in so doing shall receive applications, inspect premises, maintain records, issue permits, submit completed and approved applications to the Town Clerk for recording in the Vershire land records and perform other tasks as may be necessary to carry out the provisions of these Ordinance.

5.2 Development Board of Adjustment - Creation

A Development Board of Adjustment is established in accordance with the provisions of 24 V.S.A. Chapter 117, Section 4460. Meetings of the Board shall be held at the call of the Chair and shall be open to the public. The Board shall conduct its affairs in accordance with 24 V.S.A., Section 4461.

5.3 Development Board of Adjustment - General Duties

The Board shall be charged with the proper interpretation of this Development Ordinance and their consequent application within the municipality, and with the administration of the procedures allocated to it by these Development Ordinance including the following:

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

5.4 Development Board of Adjustment - Conditional Uses

No Development Permit shall be authorized or issued by the Development Administrator for any use listed as conditionally permitted within the Town, unless the Board of Adjustment has granted Conditional Use Approval. The Board, upon receipt of a complete application, shall conduct a legally noticed public hearing, and based upon the testimony presented at the hearing, render a written decision approving or denying the request. In granting approval, the Board shall find that the proposed use meets with the general and specific standards prescribed for such uses in this Ordinance. In its approval, the Board shall find that the use will not adversely affect:

- (a) The capacity of existing or planned community facilities;
- (b) The character of the area affected;
- (c) Traffic on roads and highways in the vicinity;
- (d) The specific provisions of this Development Ordinance; and

- (e) Utilization of renewable resources.

In granting such approvals, the Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Development Ordinance.

The Board shall act to approve or disapprove any such requested conditional use within forty-five (45) days after the date of the final public hearing held under this section, and failure to so act within such period shall be deemed approval. All decisions or actions of the Board shall be in writing and a copy mailed to the applicant and other interested parties.

5.5 Development Board of Adjustment - Appeals

Any interested person as defined under the Act [§4465] may appeal a decision or act of the Development Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Board of Adjustment, or the Town Clerk if no Secretary has been elected, and by filing a copy of the notice with the Development Administrator.

- (a) The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The Board shall give public notice of the hearing under Section 5.11, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- (b) The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant [§4470].
- (c) In accordance with the Act [§4468], all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place adjourned hearing shall be announced at the hearing.
- (d) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Development Administrator and the Town Clerk as part of the public records of the municipality, in accordance with Section 5.17. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

5.6 Development Board Of Adjustment - Variances

On an appeal, wherein a variance from the provisions of the Development Ordinance constitutes the relief requested by the appellant, the Board of Adjustment may grant such variances, and render a decision in favor of the appellant, if all the following facts are found by the Board and are specified in its decision:

- (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 the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Development Ordinance.
- (b) That as a result of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Development Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (c) That such unnecessary hardship has not been created by the appellant.
- (d) That the variance, if authorized, will not alter the essential character of the district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible from the Development Ordinance.

In rendering a decision in favor of an appellant, the Board may attach such conditions to a variance as it may consider necessary and appropriate under the circumstances to implement the purpose of this Ordinance and the Town Plan.

The issuance of a variance shall not relieve the appellant of the obligation to obtain a Development Permit and such permit shall only be issued if the proposed land development complies with all other applicable provisions, except as varied by the Board.

5.7 Permitted Uses and Conditional Use - Applications

All application for Permitted Use Approvals shall be submitted directly to the Development Administrator. Application forms and related submittal requirements are available directly from the Development Administrator.

An application forms and related submittal requirements for Conditional Use Approval, are available from the Development Administrator as well. Information required as part of the application shall include submittal of the following plans and supporting documents to the Board of Adjustment:

- (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 Ordinance;
- (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; and
- (i) Any additional documents and supporting information upon finding by the Board that such information may materially assist the Board in its review and evaluation of the proposal.

Applications will not be considered complete until all required forms and related submittals are received by the Development Administrator or the Board. The Board may waive application requirements for a Conditional Use if it is determined that the information is unnecessary for the comprehensive review of the proposed land development. Such a waiver request and determination shall be made at the time the application is submitted.

5.8 Major Subdivisions - Pre-Applications and Applications

A pre-application shall consist of the following information:

- (a) The name and address of the owner, the name and address of the applicant if different from the owner, the names and addresses of all abutters, the Book and Page number from the Town Land Record of the parcel proposed to be subdivided, and the general nature of the subdivision (single-family dwelling(s), commercial, industrial, or other).
- (b) A map showing the location of the proposed subdivision within the Town of Vershire relative to the town highway system and including general topographic features.
- (c) A sketch plan of the parcel drawn to adequate scale showing any existing structures and roads; a general layout of proposed roads, lots, and building sites; the general locations of any streams, ponds, wetlands, and fields; and approximate locations of abutting properties.
- (d) A brief written description of the proposed subdivision that includes the number and size of the lots, the water supply and sewage disposal systems proposed, and the

anticipated timing of any construction including initiation and completion of the development.

An application shall consist of the following information:

- (a) A completed major application form.
- (b) All information required by the Planning Commission as result of the pre-application meeting.
- (c) A plat of the proposed subdivision.
- (d) A description of the proposed water supply and sewage disposal systems with written certifications by a registered professional engineer or certified site technician stating that plans for each system have been approved in accordance with state and local health regulations.
- (e) Grading plans showing areas of cut and fill, and revised contours at an interval not greater than five feet.
- (f) A storm drainage plan indicating the method of collecting and discharging of drainage, as well as methods for temporary and permanent erosion control.
- (g) A plan of all existing and proposed rights of way for roads, typical road profiles, dimensions of lot lines, lot areas, locations of all principal buildings, utilities, recreation areas and other improvements.
- (h) A description of any existing or proposed covenants, easements, or similar encumbrances covering all or a part of the subdivision.
- (i) A statement regarding the adequacy of existing and proposed roads to safely serve the subdivision.

5.9 Major Subdivisions – Review and Approval Process

Upon receipt of a complete subdivision application, as determined by the Planning Commission, the applicant shall be notified in writing. If the application is incomplete, the Commission shall notify the applicant indicating what information is missing. Notification shall be in a timely manner.

After notifying the applicant in writing that the application is complete, the Commission shall warn and conduct a Public Hearing to review the proposed major subdivision. Notification of the Hearing shall be at least 15 days prior to the hearing date. See Section 5.11 for noticing requirements.

Within 45 days following the final Public Hearing, the Commission shall act to approve, disapprove, or approve with conditions, the major subdivision. Any decision or action by the Commission shall be in writing and forwarded to the applicant, abutters, and other interested persons. Failure of the Commission to act within the allotted 45 days shall be deemed approval of the major subdivision.

5.10 Major Subdivisions – Waivers

The Planning Commission may waive application requirements or review procedures, where it is determined that unique or special circumstances exist and that the public interest would not be served by denying the waiver. A request for a waiver shall be made by the applicant to the Commission and shall include information to justify the waiver. Such a request shall be made following the pre-application meeting and prior to submittal of the full application, and shall be specific with regard to the provisions that such waiver is being requested. The Commission shall provide written response to the applicant within 30 days from date of written request for the waiver.

5.11 Public Notice

Any public notice required for public hearing under this Ordinance shall be given by the publication of the date, place and purpose of such hearing in a newspaper of general circulation in the municipality, and the posting of a notice in three or more public places within the municipality, including one within view of the public right-of-way most nearly adjacent to the property for which an application is made, not less than fifteen (15) days prior to the date of the public hearing.

Planning Commission and the Board of Adjustment shall provide public notice for any and all public hearings in accordance with the provisions of this Ordinance and State statutes. Accordingly, public notice and public hearings shall be required for the following proceedings:

- (a) Major Subdivisions;
- (b) Conditional Uses;
- (c) Appeals from the decision or act of the Development Administrator; and
- (d) Variances.

Written public notice shall be given to the applicant, applicant's agent, abutting property owners, without regard to any public right-of-way. In the cases where a Major Subdivision is proposed, notice shall sent also to the Regional Planning Commission as well as to the Town Clerk of an adjacent town where any part of the parcel to be subdivided is located within 500 feet of the town boundary.

5.12 Notice of Appeal

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:

- (a) the name and address of the appellant,
- (b) a brief description of the property with respect to which the appeal is taken,
- (c) a reference to applicable provisions of these regulations,
- (d) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and

- (e) the alleged grounds why such relief is believed proper under the circumstances.

Additionally, the applicant must also post a permit notice, in a form prescribed by the Town of Vershire, within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed.

5.13 Issuance of Permit

A development permit shall be issued by the Development Administrator only in accordance with the Act [§4449] and the following provisions:

- (a) Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Development Administrator shall act to either issue or deny a development permit in writing, or to refer the application to the Zoning Board of Adjustment and/or state for consideration. In accordance with the Act [§§4448, 4449], if the Development Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- (b) No development permit shall be issued by the Development Administrator for any use or structure which requires the approval of the Zoning Board of Adjustment or Legislative Body until such approval has been obtained. For permit applications that must be referred to a state agency for review, no development permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- (c) If public notice has been issued by the Legislative Body for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Development Administrator shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw [§4449(d)].
- (d) A development permit shall include a statement of the time within which appeals may be taken under Section 5.5; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.
- (e) The Development Administrator, within three (3) days of the date of issuance, shall deliver a copy of the development permit to the Listers; and shall post a copy of the permit at the municipal offices for a period of fifteen (15) days from the date of issuance.

5.14 Permit Expiration and Extensions

A Permit shall expire unless the work or action authorized under it is commenced within two (2) years after the date effective. Completion of all work or action authorized thereunder shall occur within five (5) years of effective date of issuance unless an extension of time is approved in advance by the Development Administrator. Notwithstanding the above, permits

issued in connection with a Conditional Use or Variance may have a period of completion longer than five (5) years, provided that the approvals specifically provide such an extension of time.

Notwithstanding the above, this provision shall not apply to Permits issued for Minor Subdivisions or Major Subdivisions. The duration of these Permits shall be perpetual.

5.15 Permit Amendments

An amendment shall be required for any material or substantial change to a permitted land development, or any administrative change in the terms and conditions of a Permit. Request for a material or substantial change shall be processed using the same procedures as the original Permit. Administrative amendments that raise no likelihood of impacts reviewed as part of the original application shall be processed by the Development Administrator.

5.16 Nonconformities

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

- (a) A non-conforming use 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-conforming structure may be extended within the boundary lines of parcel or lot existing on the effective date of this Ordinance, upon issuance of a Development Permit by the Development 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 Ordinance. 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 two (2) years or more, it shall not thereafter be re-established.
- (d) A non-conforming structure which has been damaged or destroyed by any cause may be reconstructed to its prior condition with the approval of the Development Administrator if such reconstruction is sought within two years of the damage or construction.

5.17 Recording of Actions in Land Records

Any Development Permit, Notice of Decision for Conditional Use, Site Plan, or Variance, Notice of Violation, Minutes, local Sewage Permit, or similar instrument or notice of same shall be recorded in the Vershire Land Records or filed in another appropriate manner in the vault of the Town Clerk. The Clerk shall keep in such records, an index of reference to the instruments or records recorded in such book.

Where applicable, notice of recording shall list the owner of record as grantor and the Town as grantee. Such records shall be open to inspection. Within 30 days following the actions referenced above, the Development Administrator, Board of Adjustment, Planning Commission, or Board of Health shall deliver a copy of the respective decision or action to the Town Clerk for recording. Failure to record municipal permits or notices of permits within the 30-day period may limit the right of the Town to enforce these Regulations.

5.18 Major Subdivisions: Plat Recording

In accordance with 24 V.S.A. Section 4463, the approval of the Planning Commission, or certification by the Town Clerk of its failure to act within 45 days, shall expire 180 days from such approval or certification unless, within such 180-day period, such plat shall have been recorded with the Town Clerk. No plat showing a new street or highway may be recorded with the Town Clerk until it has been approved in writing by the chair of the Planning Commission, or the Clerk certifies in writing that the Planning Commission has failed to act and such notice is recorded with the plat.

The owner(s) of land for which approval has been granted shall be responsible for presenting the approved plat to the Town Clerk for recording.

Plats accepted for recording shall be in conformance with the requirements of 27 V.S.A., Section 1403, unless otherwise exempted by this Ordinance.

5.19 Minor Subdivisions: Map Recording

A Minor Subdivision map approved by the Development Administrator shall be recorded with the Town Clerk within 90 days from such approval. The owner(s) of land for which approval has been granted shall be responsible for presenting such map with the Town Clerk for recording. Failure to file such a map with the Town Clerk shall invalidate approval of the Minor Subdivision.

5.20 Appeals from the Planning Commission and Board of Adjustment

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.

5.21 Violations and Enforcement

The commencement or continuation of any land development or use subject to regulation and not in conformance with the provisions of this Ordinance shall constitute a violation. All violations shall be pursued in accordance with 24 V.S.A. Sections 4444 and 4445 of the Act. Any person who violates this Ordinance shall be fined not more that \$100 for each offense. Each day that a violation is continued shall constitute a separate offence. The Development

Administrator shall initiate the appropriate action in the name of the Town of Vershire to enforce the provisions of this Ordinance. All fines imposed and collected for violations shall be paid to the Judicial Bureau.

Pursuant to the Act, no action may be brought under this Section unless the alleged offender has had at least seven (7) days written notice by Certified Mail that the violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of this Ordinance after the seven (7) day notice period or within the next succeeding twelve (12) months.

Any person who, being the owner or agent of the owner of any lot, tract, or parcel of land, lays out, constructs, opens any street, sewer system, or other improvements for the public use, or sells, transfers, or agrees, or enters into an agreement to sell any land in a subdivision or land development or otherwise erects any structure thereon, unless in compliance with a final plat or subdivision map recorded with the Town Clerk, shall be fined not more than \$100 and each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation.

The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act (24 V.S.A. Section 4454).

Violations of this Ordinance shall be regulated as prescribed by 24 V.S.A. Sections 4451 and 4452.

6. DEFINITIONS

6.1 Terms and Uses

For the purposes of this Ordinance, meanings of words, terms, and phrases shall be interpreted as defined below and all other words shall be presumed to have their normal meaning. Any interpretation of words, phrases, or terms by the Development Administrator may be appealed to the Board of Adjustment under Section 5.5 for clarification. The Board shall base its interpretation on the following definitions, state statutes, the purposes of this Ordinance, and the need for reasonable and effective administration of this Ordinance. The Board shall maintain a record of interpretative rulings to ensure consistent and uniform application of the terms of this Ordinance.

6.2 Selected Definitions

Accessory Dwelling

A dwelling unit that is located within or appurtenant to an owner occupied single family dwelling which is secondary to the primary dwelling on the same lot and which meets with the development standards outlined in 4.8 of these Regulations.

Accessory Structure or Use

A building or use customarily incidental and subordinate to the principal building or use located on the same lot.

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 principle, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.

Alteration

Structural change that increases the exterior height, width or length of the building, including the change of location of, or addition to, a building.

Building

A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel. (See also STRUCTURE)

Childcare Facility

A "family childcare home or facility" means a home or a facility where the owner or operator is to be licensed or registered by the state for child care.

Commercial

A land use activity intended to be conducted for financial gain.

Conditional Use

A use of land which is not permitted as a right under this Ordinance, but which can be allowed by the Board of Adjustment, after public notice and a determination of whether the use complies with standards contained by this Ordinance, and upon which the Board may attach reasonable conditions.

Development Permit

A permit issued by the Development Administrator which authorizes land development determined to be in accordance with this Ordinance.

Driveway

An access, easement or right-of-way serving a maximum of three parcels.

Dwelling, Single-Family

A building designed for or occupied solely as a dwelling by one family.

Dwelling, Two-Family

A building designed for or occupied solely as a dwelling by two families living independently of each other.

Dwelling Unit

A dwelling structure or portion thereof, designed, constructed, or used as separate living quarters for one family, and which includes facilities for food preparation, sleeping, and sanitary facilities.

Existing Parcel

A tract of land established by a deed or a plat on record with the Town prior to the effective date of this Ordinance.

Extraction

The removal of topsoil, rock, sand, gravel or other similar material for commercial, industrial, or governmental purposes.

Frontage

That portion of a lot which is adjacent and parallel to a public road or street

Interested Person

Interested persons are those persons who, under Vermont law, have the right to appeal an act or decision by a made by the Vershire Development Administrator or Development Board of Adjustment. Interested persons include:

1. The applicant or, if the applicant does not own the subject property, the person owning title to property.
2. A municipality that has a plan or bylaw at issue in an appeal, or any municipality adjoining that municipality.

3. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any zoning decision or act who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will violate the municipal plan or bylaw.
4. Any ten persons, either voters or landowners, who, by signed petition to the Development Board of Adjustment, allege that the decision or act, if confirmed, will violate the municipal plan or bylaw. The petitioners must designate one person to serve as their representative.
5. Any department and administrative subdivision of the State owning property within the municipality, and the Agency of Commerce and Community Development.

Junkyard

Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. Any use of land or buildings requiring a junkyard license pursuant to 24 V.S.A. Chapter 61.

Legislative Body

The Vershire Selectboard.

Lot

A designated tract or area of land established by recorded or deed 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 or surface waters with a drainage area greater than 10 square miles.

Lot Area

Total area within the property lines excluding any part thereof lying within the boundaries of a public street, actual or proposed, and within the municipal boundaries.

Nonconformity

A nonconforming use, structure, lot, or parcel.

Nonconforming lot or parcel

Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Development Administrator.

Nonconforming Use

A use of land that does not conform to the preset bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Development Administrator.

Nonconforming Structure

A structure or part of a structure that does not conform to the preset bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as result of error by the Development Administrator.

Office

A business of a service nature provided principally by the owner where financial, administrative, or management functions are transacted. Includes structures and uses normally associated with office operations as understood and applied in current popular usage.

Outdoor Recreational Facility

A use of publicly owned land together with any buildings or structures which typically involves provision of a service including camp sites, swimming, cross-country ski trails, play fields, and hiking trails.

Parking Space

An area 9 feet wide and 18 feet long designated for parking one motor vehicle.

Perennial Stream

A watercourse having a source and terminus, banks, and channel through which water flows during all seasons of the year.

Permitted Use

Any use permitted under this Ordinance where review is conducted solely by the Development Administrator. See Conditional Use.

Plat

A map or plan drawn to scale on one or more parcels, tracts, or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements, and other rights, the composition of which meets with the requirements of 27 V.S.A. Section 1403.

Principal Structure

A structure associated with the principal purpose of ownership or use of a particular parcel.

Principal Use

The primary use of a parcel or structure. There shall be only one principal use of a parcel or structure unless otherwise specifically approved as a mixed use.

Property Line

A line of record bounding a lot which divides it from an abutting lot or from a public or private street.

Road or Street

A road, highway, or street open and available to public use and meaning the entire width of the right-of-way.

Setback

The distance from a road or street right-of-way boundary, or a property line to the nearest part of a building or structure.

Sign

Any structure, display, device, or representation designed or used to call attention to any thing, person, business, activity, or place visible from any public road or vehicular right-of-way. A sign does not include the flag, pennant, or insignia of the nation, state, or Town, official announcements or similar signs of government. See Section 4.7.

Sketch Plan

A rough sketch map of a proposed subdivision or site plan of sufficient accuracy and detail to be used for the purpose of discussion and classification.

Structure

Any assembly of materials with fixed location on the ground or attached to an object having an affixed location on the ground (see also building) or an assembly of materials for occupancy or use including, but not limited to, a building, mobile home or trailer, sign, wall or fence, except a wall or fence on an operating farm.

Subdivision

The act of dividing of a parcel of land by sale, gift, lease, mortgage foreclosure, court order partition, or filing of a subdivision map or plat plan on the Town Records where the act of division creates two or more lots within the bounds of the original parcel.

Subdivision Map

A map representing a tract or parcel of land drawn to sufficient accuracy and detail to reasonably depict the location of all proposed lots, roads, rights-of-way, or other plans resulting from a land subdivision.

Temporary Sign

A sign designed or intended to be displayed for a period of not more than ten (10) days in any given year.

Tower

A structure more than 20 feet in height above ground elevation built for the purpose of supporting, elevating, or placement of antennas for broadcast services or wireless services.

Use

The purpose for which a building, structure, or parcel of land is designed, occupied, or intended.

Wetlands

Those land areas that are inundated by surface or ground water with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas as grow food or crops in connection with farming activity. See Vermont Significant Wetlands Inventory Maps (VSWI), National Wetlands Inventory Maps.

Wireless Communication Facility

A tower, pole, antenna, guy wire, or related fixtures or equipment intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-bases transmission/reception and for which a license is sought or has been granted by the FCC; the construction; or improvement of a road, trail, building, or structure incidental to a communications facility.