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Article 1. General Provisions

Section 1.01. Title

- (A) These regulations shall be known and cited as the *Town of Ferrisburgh Land Use Regulations*.

Section 1.02. General Purpose

- (A) It is the purpose of these regulations to implement the policies set forth in the Planning and Development Act, 24 VSA Chapter 117 (the Act) and the *Ferrisburgh Town Plan*. These regulations are designed to:
- (1) Protect the public health, safety and welfare;
 - (2) Direct and manage growth in Ferrisburgh;
 - (3) Promote an vital rural economy with agriculture as its base;
 - (4) Conserve the town's rural agricultural landscape;
 - (5) Protect soils, water, wetlands, forests, wildlife and other natural resources;
 - (6) Preserve the town's quality of life; and
 - (7) Enhance Ferrisburgh's sense of community.

Section 1.03. Amendments

- (A) Amendments to these regulations shall be prepared and adopted in accordance with the Act.

Section 1.04. Repeal

- (A) These regulations amend and replace Ferrisburgh's previous Zoning Bylaws and Subdivision Regulations in their entirety. The previous bylaws and regulations shall be repealed upon adoption of these regulations.

Section 1.05. Unified Development Bylaws

- (A) These land use regulations are intended to integrate all of Ferrisburgh's zoning ordinances, bylaws and regulations into a unified development bylaw pursuant to 24 VSA § 4419.

Section 1.06. Severability

- (A) The invalidity of any provision of these regulations shall not invalidate the remaining provisions.

Section 1.07. Effective Date

- (A) These regulations shall become effective upon adoption pursuant to 24 VSA § 4442.

Section 1.08. Prior Approvals

- (A) Construction approved before adoption or amendment of these regulations shall require no additional permit or permit amendment, if such construction is completed within one year from the date of such adoption.

- (B) The town shall not require any change in plans or construction of a structure, or use, for which a permit had been issued and which has subsequently been made non-complying or non-conforming by the amendment of these regulations, if the activities authorized by the permit are completed while the permit is valid.

Section 1.09. Applicability

- (A) A permit shall be required for all land development as defined in 24 V.S.A. § 4303. All land development shall conform to these regulations. Any land development not specifically authorized under these regulations is prohibited unless specifically exempted as per Section 3.01 or Section 3.02 of these regulations.
- (B) Land development includes:
 - (1) The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure,
 - (2) Any mining, excavation, or landfill,
 - (3) Any change in use of any building or other structure, or land or extension of use of lands.
 - (4) The division of a parcel into two or more parcels.
- (C) The application of these regulations is subject to all applicable provisions of the Act as most recently amended.
- (D) Exemptions from and state limitations on these regulations are found in Section 3.01 and Section 3.02 of these regulations.

Article 2. Zoning Districts and Regulations

Section 2.01. Establishment of Zoning and Overlay Districts

- (A) The following zoning districts are established:
- | | |
|--|--|
| (1) Agricultural West Ferrisburgh (AWF) | (7) Parks, Resorts & Summer Camps (PRSC) |
| (2) Civic Center (CC) | (8) Route 7 Rural Agricultural (RAG7) |
| (3) Conservation/Recreation (CONR) | (9) Rural Agricultural Residential (RAR) |
| (4) Highway Commercial (HC) | (10) Rural Residential (RR) |
| (5) Industrial (IND) | (11) Shoreland (SH) |
| (6) North Ferrisburgh Village District (NFV) | |
- (B) The following overlay districts are established:
- (1) Conservation Overlay (CONO)
 - (2) Forest Upland Overlay (FUO)
 - (3) Flood Hazard Overlay (FHO)

Section 2.02. Establishment of Zoning Map

- (A) The location and boundaries of the zoning districts are established as shown on the Official Zoning Map. The Official Zoning Map is hereby made part of these regulations and a part of all future bylaws.
- (B) The Official Zoning Map shall be kept on file in the Ferrisburgh Town Clerk's Office. A small-scale, unofficial zoning map is attached for information purposes only. Anyone seeking an official determination of zoning boundaries should contact the Zoning Administrator and use the Official Zoning Map.

Section 2.03. Interpretation of District Boundaries

- (A) District boundaries shall be interpreted in the following manner:
- (1) Boundaries indicated as following streets, highways, railroads, rivers or streams shall be construed as following the centerline of such streets, highways, road, railroad, rivers or streams unless otherwise described.
 - (2) Computation of acreage of zoning district within a parcel or lot shall not include land within a right-of-way such as a town road right-of-way or railroad right-of-way
 - (3) Boundaries indicated as following tax parcel property lines shall be construed as following such lines as they exist on the effective date of the district boundary created by these regulations.
 - (4) Boundaries indicated as following the Lake Champlain shoreline shall be construed as following the mean high water mark, which is set at 98 feet above mean sea level.
 - (5) The scale of the map shall determine distances not specifically indicated on the Official Zoning Map or described under each zone.
 - (6) GIS maps shall be consulted where there are questions as to specific location of boundaries.

- (B) When the Zoning Administrator cannot definitively determine the location of a district boundary through reference to the Official Zoning Map and the GIS data, the Planning Commission shall interpret the location of the boundary. Interpretation may include field measurements.

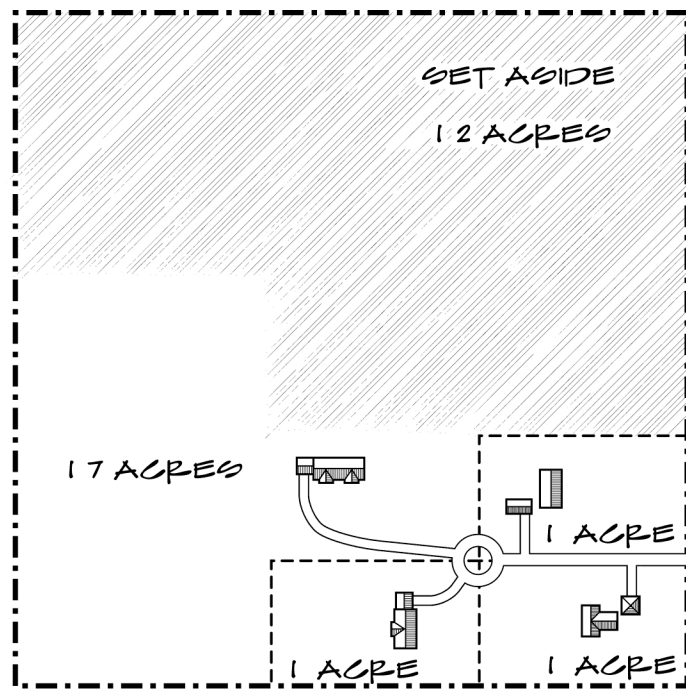
Section 2.04. Application of Zoning Regulations

- (A) No land development shall occur unless in conformance with the regulations for the district in which it is located or as otherwise permitted as a Planned Unit Development (PUD). The application of these regulations is subject to 24 VSA § 4411 and 4413.
- (B) The enactment of these regulations shall not repeal or in any way annul or impair any zoning permits previously issued.
- (C) Uses allowed in each district are classified as permitted or conditional. The Zoning Administrator may issue permits for permitted uses (Section 3.07). Applicants must receive approval from the Zoning Board of Adjustment for conditional uses before the ZA can issue a permit (Article 7). Both permitted and conditional uses may be subject to site plan review by the Planning Commission (Article 6).
- (D) Any use not listed as either permitted or conditional in a district is prohibited in that district. The Zoning Board of Adjustment shall not grant a variance to allow a prohibited use.

Section 2.05. Interpretation of Dimensional Standards

- (A) **Maximum Development Density.** In order to preserve rural character, protect agricultural land and conserve fragile wetlands, shorelines, wildlife habitat and natural heritage sites, and promote more compact development, specified zoning districts are density-based. Density-based zoning separates density from lot size. No minimum lot size is specified and the permitted density is averaged over an entire parcel. The purpose of density-

Diagram 1: Maximum Density



Density-Based Zoning. In a district with a maximum density of 1 unit (dwelling) per 5 acres, this 20-acre parcel could be subdivided into 4 residential lots. Each of the lots does not have to be 5 acres. The subdivision could result in three 1-acre lots and one 17-acre lot. The 17-acre lot would include 12 acres of set aside land that could not be further developed. The small lots can be subdivided one at a time. For each 1-acre lot created, a 4-acre area would be set aside with a deed restriction and/or easement.

based zoning is to maintain a low density of development in rural and environmentally sensitive areas without mandating the creation of large lots. Diagram 1 illustrates the principals of density-based zoning. Standards regarding set aside areas will be the same as set forth in Section 8.05 of these regulations.

- (B) **Lot Frontage, Depth and Ratio.** Minimum requirements for lot frontage and depth establish the minimum lot size. Having a required lot ratio regulates the configuration of lots and is intended to prevent the creation of “spaghetti” and “flag” or other irregularly shaped lots (see Diagram 6).
- (C) **Setbacks and Yards.** These dimensional standards govern the area of the lot that generally must remain open and not be developed. The purpose of the setbacks is to provide buffers between properties, maintain green spaces, and protect natural resources such as shoreline, wetlands and rivers (see Diagram 7).

Section 2.06. Application of Zoning and Overlay District Regulations

- (A) The permitted and conditional uses in each district shall be subject to the specific standards set forth for that district.
- (B) The sections below describe the zoning and overlay districts within the Town of Ferrisburgh. Each set of district regulations includes the following:
 - (1) **Purpose**, which presents the objectives and describes the intent for the district, relating back to the Town Plan.
 - (2) **Permitted Uses**, which lists the uses for which the Zoning Administrator may issue a permit as per Section 3.07 of these regulations.
 - (3) **Conditional Uses**, which lists the uses for which the Zoning Administrator may issue a permit only after approval by the Zoning Board of Adjustment (ZBA) as set forth in Article 7 of these regulations.
 - (4) **Dimensional Standards**, which lists the minimum acreage, setbacks and other physical design elements established for each district.
 - (5) **Other District Standards**, which includes other standards that will be applied to development within each district.

Section 2.07. Agricultural West Ferrisburgh District (AWF)

(A) **Purpose.** It is the purpose of the Agricultural West Ferrisburgh District to encourage active agriculture and preservation of primary agricultural soils for future generations in this area of town as described in the *Ferrisburgh Town Plan*.

(B) **Permitted Uses.**

- (1) Accessory apartment
- (2) Accessory structure
- (3) Agriculture
- (4) Bed and breakfast
- (5) Family childcare home
- (6) Forestry
- (7) Group home
- (8) Home occupation
- (9) Seasonal dwelling
- (10) Single-family dwelling
- (11) Two-family dwelling

(C) **Conditional Uses.**

- (1) Campground
- (2) Cemetery
- (3) Farm housing
- (4) Home-based business 1
- (5) Home-based business 2
- (6) Marina
- (7) Outdoor recreation
- (8) Telecommunications antennae

(D) **Dimensional Standards.**

- | | |
|---|---------------------------------|
| (1) Maximum development density | 1 use per 5 acres |
| (2) Minimum lot frontage | 200 feet |
| (3) Minimum lot depth | 200 feet |
| (4) Maximum lot ratio | 1 to 3 |
| (5) Minimum front yard setback | 80 feet ^a |
| (6) Minimum side yard setback | 25 feet |
| (7) Minimum rear yard setback | 25 feet |
| (8) Maximum building envelope | 20,000 square feet ^b |
| (9) Maximum lot coverage | 25% |
| (10) Maximum principal building footprint | 2,000 square feet |
| (11) Maximum accessory building footprint | 1,000 square feet |
| (12) Maximum principal building height | 35 feet |
| (13) Maximum accessory building height | 30 feet |

^a As measured from the centerline of the road.

^b Or the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All conditional uses shall require site plan review.
- (2) Non-agricultural site improvements, including principal and accessory structures and parking areas shall be located within the designated building envelope subject to subdivision, PUD and/or conditional use review.
- (3) In order to minimize the loss of productive agricultural land, impacts to existing farm operations and disruption to the rural character of the district, the building envelope shall be located along field edges or on the least fertile soils available for development.
- (4) Development shall be designed to minimize loss of agricultural land and natural habitat, minimize impact on water quality.
- (5) All subdivision, PUD and other land development permits or approvals shall include measures to ensure preservation of open space.
- (6) Vegetated buffer zones between residential and agricultural uses may be required under site plan, conditional use or subdivision review.
- (7) PUDs may be proposed on any size parcel, and PUDs shall be required for all subdivisions of parcels over 15 acres in size.
- (8) Access roads, driveways and utility corridors shall be shared to the extent feasible. Where sites include linear features such as existing roads, tree lines, stone walls, and fence lines, access roads, driveways and utility corridors shall follow these features in order to minimize the loss of productive agricultural land and reduce physical and visual impacts.
- (9) Development shall not conflict with accepted agricultural practices in this district. All permits issued for non-agricultural development in this district shall contain the following language: "This permit is being issued for development within an agricultural district. As such, it shall be understood as a condition of this permit that agricultural activities, if consistent with Accepted Agricultural Practices as defined by the Secretary of Agriculture Food and Markets and established prior to non-agricultural activities within this district shall be entitled to a rebuttable presumption that the activity is reasonable and does not constitute a nuisance. The presumption may be rebutted by showing that the activity has a substantial adverse effect on the public.

Section 2.08. Civic Center District (CC)

(A) **Purpose.** This district is intended to accommodate primarily community functions and services, along with residential dwellings in a relatively compact, higher density center. This district comprises an area in the center of Ferrisburgh that includes some of the major community functions of the town, and which builds on historic patterns of land use as described in the *Ferrisburgh Town Plan*.

(B) Permitted Uses.

- (1) Accessory apartment
- (2) Accessory structure
- (3) Family childcare home
- (4) Group home
- (5) Home occupation
- (6) Home-based business 1
- (7) Single-family dwelling
- (8) Two-family dwelling

(C) Conditional Uses.

- (1) Community facility
- (2) Daycare facility
- (3) Indoor recreation
- (4) Outdoor recreation
- (5) Professional office
- (6) Restaurant

(D) Dimensional Standards.

	Residential	Non-residential
(1) Maximum development density	1 use per 1 acre	1 use per 2 acres
(2) Minimum lot frontage	100 feet	200 feet
(3) Minimum lot depth	150 feet	300 feet
(4) Maximum lot ratio	1 to 3	1 to 3
(5) Minimum front yard setback	80 feet ^a	100 feet ^a
(6) Minimum front yard setback from Route 7	100 feet ^a	100 feet ^a
(7) Minimum side yard setback	15 feet	50 feet
(8) Minimum rear yard setback	25 feet	50 feet
(9) Maximum building envelope	20,000 square feet ^b	40,000 square ft ^b
(10) Maximum lot coverage	50%	50%
(11) Maximum principal building footprint	2,000 square feet	10,000 square feet
(12) Maximum accessory building footprint	1,000 square feet	2,000 square feet
(13) Maximum principal building height	35 feet	35 feet
(14) Maximum accessory building height	25 feet	25 feet

^a As measured from the centerline of the road.

^b Or the minimum amount of land necessary to site a septic system and water system.

(E) Other District Standards.

- (1) All conditional uses require site plan review.
- (2) PUDs are required for all subdivisions within this district including preparation of a master plan with creative site planning and design, clustered, compact building envelopes, some public open space and/or uses (see Article 8 of these regulations).

Section 2.09. Conservation and Recreation District (CONR)

(A) **Purpose.** To preserve the existing open spaces and uses where there are fragile ecosystems such as wetlands, rivers, flood hazard areas, wildlife management areas, town forest, steep slopes and upland forest as described in the *Ferrisburgh Town Plan*. Open space uses include agriculture and forest use, public outdoor recreation, hunting, fishing, wildlife refuges, nature reserves and hiking.

(B) **Permitted Uses.**

- (1) Agriculture
- (2) Forestry
- (3) Nature preserve
- (4) Wildlife refuge

(C) **Conditional Uses.**

- (1) Accessory apartment
- (2) Accessory structure
- (3) Cemetery
- (4) Family childcare home
- (5) Group home
- (6) Home occupation
- (7) Marina
- (8) Outdoor recreation
- (9) Seasonal dwelling
- (10) Single-family dwelling

(D) **Dimensional Standards.**

- | | |
|---|---------------------------------|
| (1) Maximum development density | 1 use per 25 acres |
| (2) Minimum lot frontage | 200 feet |
| (3) Minimum lot depth | 200 feet |
| (4) Maximum lot ratio | 1 to 3 |
| (5) Minimum front yard setback | 80 feet ^a |
| (6) Minimum front yard setback from Route 7 | 100 feet ^a |
| (7) Minimum setback from Lake Champlain | 80 feet ^b |
| (8) Minimum side yard setback | 25 feet |
| (9) Minimum rear yard setback | 25 feet |
| (10) Maximum building envelope | 20,000 square feet ^c |
| (11) Maximum lot coverage | 25% |
| (12) Maximum principal building footprint | 2,000 square feet |
| (13) Maximum accessory building footprint | 1,000 square feet |
| (14) Maximum principal building height | 35 feet |
| (15) Maximum accessory building height | 30 feet |

^a As measured from the centerline of the road.

^b As measured from the mean water mark, 95.5 feet above mean sea level.

^c Or the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All conditional uses shall require site plan review.
- (2) A permit application shall not be considered complete until all required state and/or federal permits have been obtained, including wetlands determination, Corps of Engineers, flood hazard determination, shoreland encroachment, etc.
- (3) All land development, including subdivision, shall include measures to ensure preservation of open space.
- (4) Development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the rural qualities of the site as experienced both on site and from other vantage points in town.
- (5) Development in this district could result in significant impacts on wildlife and water quality, as well as impacts to visual character. Such impacts would be directly contrary to the Town Plan and these regulations. Therefore, the Zoning Board of Adjustment or Planning Commission should impose all reasonable mitigating measures upon issuance of a permit.
- (6) Mitigating factors, in addition to any other required or suggested by these regulations, shall include minimizing the area of forest cleared for house sites, protection of any Vermont Natural Heritage sites, requirement of a significant visual buffer around proposed buildings, and use of non-reflective roof material. Other mitigating measures may include protection of cover, food sources, ground and surface waters, nesting and denning sites, vernal pools and wildlife.

Section 2.10. Highway Commercial District (HC)

(A) **Purpose.** The primary purpose of this district is to provide two relatively compact areas to serve highway-oriented business, as described in the *Ferrisburgh Town Plan*, while protecting historic residential dwellings. The town prefers the state or other similar facilities to locate in this district.

(B) **Permitted Uses.**

- (1) Accessory apartment
- (2) Accessory structure
- (3) Agriculture
- (4) Bed and breakfast
- (5) Family childcare home
- (6) Group home
- (7) Home occupation
- (8) Home-based business 1
- (9) Single-family dwelling

(C) **Conditional Uses.**

- (1) Community facility
- (2) Equipment sales and services
- (3) Gasoline station
- (4) Home-based business 2
- (5) Indoor recreation
- (6) Light industry
- (7) Motel
- (8) Multi-family dwelling
- (9) Restaurant
- (10) Retail store
- (11) Vehicle sales and service

(D) **Dimensional Standards.**

	Residential	Non-residential
(1) Minimum lot size	2 acres	2 acres
(2) Minimum lot frontage	200 feet	200 feet
(3) Minimum lot depth	300 feet	300 feet
(4) Minimum lot ratio	1 to 3	1 to 3
(5) Minimum front yard setback	100 feet ^a	100 feet ^a
(6) Minimum side yard setback	25 feet	25 feet
(7) Minimum rear yard setback	25 feet	25 feet
(8) Maximum building envelope	20,000 square feet ^b	40,000 square ft ^b
(9) Maximum lot coverage	25%	50%
(10) Maximum principal building footprint	2,000 square feet	10,000 square feet
(11) Maximum accessory building footprint	1,000 square feet	2,000 square feet
(12) Maximum principal building height	35 feet	35 feet
(13) Maximum accessory building height	30 feet	30 feet

^aAs measured from the centerline of the road.

^bOr the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All conditional uses require site plan review.
- (2) Access to all commercial lots shall be limited in number, with use of multi-lot access roads as far as practical in order to promote safety and ease traffic flow on public roads, especially Route 7.

Section 2.11. Industrial District (IND)

(A) **Purpose.** To provide an area for light industry and continuation of present industry as described in the *Ferrisburgh Town Plan*.

(B) **Permitted Uses.**

- (1) None

(C) **Conditional Uses.**

- (1) Contractor's yard
- (2) Light industry
- (3) Public transport facility
- (4) Public utility
- (5) Storage trailer
- (6) Warehouse

(D) **Dimensional Standards.**

- | | |
|---|---------------------------------|
| (1) Minimum lot size | 2 acres |
| (2) Minimum lot frontage | 200 feet |
| (3) Minimum lot depth | 300 feet |
| (4) Maximum lot ratio | 1 to 3 |
| (5) Minimum front yard setback | 100 feet ^a |
| (6) Minimum side yard setback | 25 feet |
| (7) Minimum rear yard setback | 25 feet |
| (8) Maximum building envelope | 40,000 square feet ^b |
| (9) Maximum lot coverage | 50% |
| (10) Maximum principal building footprint | 10,000 square feet |
| (11) Maximum accessory building footprint | 2,000 square feet |
| (12) Maximum principal building height | 35 feet |
| (13) Maximum accessory building height | 30 feet |

^aAs measured from the centerline of the road.

^bOr the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All conditional uses require site plan review.
- (2) Access to all industrial lots shall be limited in number, with use of multi-lot access roads as far as practical in order to promote safety and ease traffic flow on public roads, especially Route 7.
- (3) All development shall be located within easy access of road and rail services.
- (4) All development shall be set back from abutting residential parcels a minimum of 50 feet.

Section 2.12. North Ferrisburgh Village District (NFV)

(A) **Purpose.** To conserve and enhance where possible the historic character of this traditional center, as described in the *Ferrisburgh Town Plan*, which is comprised of a mix of single family dwellings, scattered small-scale retail and commercial businesses, and home occupations and small-scale accessory uses on lot which vary in size and in setbacks from road and from neighboring lots. Most of this area is already developed.

(B) Permitted Uses

- (1) Accessory apartment
- (2) Accessory structure
- (3) Agriculture
- (4) Bed and breakfast
- (5) Family childcare home
- (6) Group home
- (7) Home occupation
- (8) Home-based business 1
- (9) Single-family dwelling

(C) Conditional Uses

- (1) Cemetery
- (2) Community facility
- (3) Daycare facility
- (4) Multi-family dwelling
- (5) Restaurant
- (6) Retail store

(D) Dimensional Standards

	Residential	Non-residential
(1) Maximum development density	1 use per 1 acre	1 use per 1 acre
(2) Minimum lot frontage	50 feet	200 feet
(3) Minimum lot depth	100 feet	300 feet
(4) Maximum lot ratio	1 to 3	1 to 3
(5) Minimum front yard setback	40 feet ^a	80 feet ^a
(6) Minimum side yard setback	15 feet	25 feet
(7) Minimum rear yard setback	25 feet	25 feet
(8) Maximum building envelope	20,000 square feet ^b	40,000 square ft ^b
(9) Maximum lot coverage	50%	50%
(10) Maximum principal building footprint	2,000 square feet	2,000 square feet
(11) Maximum accessory building footprint	1,000 square feet	1,000 square feet
(12) Maximum principal building height	35 feet	35 feet
(13) Maximum accessory building height	25 feet	25 feet

^a As measured from the centerline of the road.

^b Or the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All conditional uses and new dwellings require site plan review to ensure their compatibility with the 19th century character of this historic village center district.
- (2) Dimensional standards in (D) above may be waived as per Section 4.03 of these regulations if the AMP agrees that the proposed dimensional standards would be more in keeping with the 19th century character of this historic village center district.
- (3) Waivers as per Section 4.03 of these regulations may also be granted where needed to accommodate or enhance public sidewalks, or to meet parking needs associated with home-based businesses.
- (4) Where the Conservation Overlay District overlays the North Ferrisburgh Village District, the standards in Section 2.18 shall also apply.

Section 2.13. Parks, Resorts and Summer Camps District (PRSC)

(A) **Purpose.** To protect and conserve the Lake Champlain shoreline and the associated historic pattern of land use characterized by the summer camp community located on the large parcels of Long Point Association, the state parks at Kingsland Bay and Button Bay, and the unique historic Basin Harbor Club resort as described in the *Ferrisburgh Town Plan*.

- | | |
|--|---|
| <p>(B) Permitted Uses.</p> <ul style="list-style-type: none"> (1) Agriculture (2) Nature Preserve (3) Wildlife Refuge | <p>Conditional Uses (con't)</p> <ul style="list-style-type: none"> (7) Group home (8) Home occupation (9) Indoor recreation (10) Marina (11) Museum (12) Outdoor recreation (13) Resort (14) Restaurant (15) Seasonal dwelling (16) Shoreline improvements (17) Single-family dwelling (18) State park (19) Telecommunications antenna (20) Town beach |
| <p>(C) Conditional Uses.</p> <ul style="list-style-type: none"> (1) Accessory apartment (2) Accessory structure (3) Airport (4) Cemetery (5) Daycare facility (6) Family childcare home | |

- (D) **Dimensional Standards.**
- | | |
|---|----------------------|
| (1) Maximum development density | 1 use per 2 acres |
| (2) Minimum setback from Lake Champlain | 80 feet ^a |
| (3) Maximum lot coverage | 20% |
| (4) Maximum building height | 30 feet |

^a As measured from the mean water mark, 95.5 feet above mean sea level.

- (E) **Other District Standards.**
- (1) All conditional uses require site plan review.
 - (2) Dimensional standards may be waived as per Section 4.03 of these regulations where the AMP agrees that the proposed dimensional standards are appropriate for the historic character of the area and where neighbors do not object to granting the requested waiver.
 - (3) Construction or substantial modifications to all buildings shall be compatible with the historic character of this district.
 - (4) All proposed development shall require detailed plans for protection of shoreline.

Section 2.14. Route 7 Rural Agricultural District (RAG7)

(A) **Purpose.** To provide an open, agricultural or green corridor of low-density development along a section of US Route 7 in the center of Ferrisburgh, as described in the *Ferrisburgh Town Plan*, while retaining the rural character of the town as seen from the highway.

(B) **Permitted Uses.**

- (1) Accessory apartment
- (2) Accessory structure
- (3) Agriculture
- (4) Family childcare home
- (5) Forestry
- (6) Group home
- (7) Home occupation
- (8) Home-based business 1
- (9) Single-family dwelling

(C) **Conditional Uses.**

- (1) Multi-family dwelling
- (2) Two-family dwelling

(D) **Dimensional Standards.**

- | | |
|---|---------------------------------|
| (1) Maximum development density | 1 use per 5 acres |
| (2) Minimum lot frontage | 200 feet |
| (3) Minimum lot depth | 500 feet |
| (4) Maximum lot ratio | 1 to 3 |
| (5) Minimum front yard setback | 250 feet ^a |
| (6) Minimum side yard setback | 25 feet |
| (7) Minimum rear yard setback | 25 feet |
| (8) Maximum building envelope | 20,000 square feet ^b |
| (9) Maximum lot coverage | 20% |
| (10) Maximum principal building footprint | 2,000 square feet |
| (11) Maximum accessory building footprint | 1,000 square feet |
| (12) Maximum principal building height | 35 feet |
| (13) Maximum accessory building height | 30 feet |

^aAs measured from the centerline of the road.

^bOr the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All uses except agricultural and forestry uses shall be subject to site plan review as per Article 6 of these regulations.
- (2) Because the purpose of this district is to provide a low-density open landscape and retain the rural character of the town as seen from the highway, no waivers of the above dimensional standards shall be granted which have the potential to create the effect of linear sprawl along the highway.

Section 2.15. Rural Agricultural Residential District (RAR)

(A) **Purpose.** To support active agriculture, and a rural, open, relatively low-density settlement pattern of primarily single-family residences, farms and small-scale home businesses. This district comprises areas of town with existing year-round service road frontage. It is anticipated that year-round single-family dwellings will comprise the major part of development in this district.

(B) Permitted Uses

- (1) Accessory apartment
- (2) Accessory structure
- (3) Agriculture
- (4) Bed and breakfast
- (5) Family childcare home
- (6) Forestry
- (7) Group home
- (8) Home occupation
- (9) Home-based business 1
- (10) Nature preserve
- (11) Seasonal dwelling
- (12) Single-family dwelling
- (13) Two-family dwelling
- (14) Wildlife refuge

(C) Conditional Uses.

- (1) Aircraft landing strip
- (2) Campground
- (3) Cemetery
- (4) Community facility
- (5) Daycare facility
- (6) Equipment sales and service
- (7) Extraction
- (8) Farm housing
- (9) Home-based business 2
- (10) Indoor recreation
- (11) Junk yard
- (12) Marina
- (13) Mobile home park
- (14) Museum
- (15) Outdoor recreation
- (16) Resort
- (17) Restaurant
- (18) Telecommunications antenna
- (19) Telecommunications facility

(D) Dimensional Standards.

	Residential	Non-residential
(1) Maximum development density	1 use per 5 acres	1 use per 5 acres
(2) Minimum lot frontage	200 feet	250 feet
(3) Minimum lot depth	200 feet	300 feet
(4) Maximum lot ratio	1:3	1:3
(5) Minimum front yard setback	80 feet ^a	100 feet ^a
(6) Minimum front yard setback from Route 7	100 feet ^a	100 feet ^a
(7) Minimum side yard setback	25 feet	50 feet
(8) Minimum rear yard setback	25 feet	50 feet
(9) Maximum building envelope	20,000 square feet ^b	40,000 square ft ^b
(10) Maximum lot coverage	20%	30%
(11) Maximum principal building footprint	2,000 square feet	5,000 square feet
(12) Maximum accessory building footprint	1,000 square feet	2,000 square feet
(13) Maximum principal building height	35 feet	35 feet
(14) Maximum principal building height	25 feet	25 feet

^a As measured from the centerline of the road.

^b Or the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All conditional uses shall require site plan review as per Article 6 of these regulations.
- (2) In subdivision, PUD or conditional use review, non-agricultural site improvements, including principal and accessory structures and parking areas, shall be located within a designated building envelope.
- (3) In order to minimize the loss of productive agricultural land, impacts to existing farm operations and disruption to the rural character of the district, building envelopes shall be located in wooded areas, field edges, or on the least fertile soils available for development. Vegetated buffer zones between residential and agricultural uses may be required under site plan, conditional use or subdivision review.
- (4) PUDs are required for subdivision of all parcels 15 acres or larger in this district as per Article 8 of these regulations.
- (5) Access roads, driveways and utility corridors shall be shared to the extent feasible. Where sites include linear features such as existing roads, tree lines, stone walls, and fence lines, access roads, driveways and utility corridors shall follow these features in order to minimize the loss of productive agricultural land and reduce physical and visual impacts.
- (6) Development shall not conflict with accepted agricultural practices in this district. All permits issued for non-agricultural development in this district shall contain the following language: “This permit is being issued for development within an agricultural district. As such, it shall be understood as a condition of this permit that agricultural activities, if consistent with Accepted Agricultural Practices as defined by the Secretary of Agriculture Food and Markets and established prior to non-agricultural activities within this district shall be entitled to a rebuttable presumption that the activity is reasonable and does not constitute a nuisance. The presumption may be rebutted by showing that the activity has a substantial adverse effect on the public.”
- (7) All subdivision, PUD and other land development permits or approvals shall include measures to ensure preservation of open space. The development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the rural character of the site as experienced both on site and from other vantage points in town (see Section 8.05 of these regulations).

Section 2.16. Rural Residential District (RR)

(A) **Purpose.** To support a settlement pattern of primarily single-family residences and small home-based business in proximity to areas of existing residential development as described in the *Ferrisburgh Town Plan*. This district comprises areas of town with existing year-round service road frontage. It is anticipated that year-round single-family dwellings will comprise the major part of development in this district.

(B) Permitted Uses

- (1) Accessory apartment
- (2) Accessory structure
- (3) Agriculture
- (4) Bed and breakfast
- (5) Family childcare home
- (6) Forestry
- (7) Group home
- (8) Home occupation
- (9) Home-based business 1
- (10) Nature preserve
- (11) Seasonal dwelling
- (12) Single-family dwelling
- (13) Two-family dwelling
- (14) Wildlife refuge

(C) Conditional Uses.

- (1) Aircraft landing strip
- (2) Campground
- (3) Cemetery
- (4) Community facility
- (5) Daycare facility
- (6) Equipment sales and service
- (7) Extraction
- (8) Farm housing
- (9) Home-based business 2
- (10) Indoor recreation
- (11) Junk yard
- (12) Marina
- (13) Museum
- (14) Outdoor recreation
- (15) Resort
- (16) Restaurant
- (17) Telecommunications antenna
- (18) Telecommunications facility

(D) Dimensional Standards.

	Residential	Non-residential
(1) Minimum lot size	2 acres	2 acres
(2) Minimum lot frontage	200 feet	250 feet
(3) Minimum lot depth	200 feet	300 feet
(4) Maximum lot ratio	1:3	1:3
(5) Minimum front yard setback	80 feet ^a	100 feet ^a
(6) Minimum front yard setback from Route 7	100 feet ^a	100 feet ^a
(7) Minimum side yard setback	25 feet	50 feet
(8) Minimum rear yard setback	25 feet	50 feet
(9) Maximum building envelope	20,000 square feet ^b	40,000 square ft ^b
(10) Maximum lot coverage	25%	50%
(11) Maximum principal building footprint	2,000 square feet	5,000 square feet
(12) Maximum accessory building footprint	1,000 square feet	2,000 square feet
(13) Maximum principal building height	35 feet	35 feet
(14) Maximum principal building height	25 feet	25 feet

^a As measured from the centerline of the road.

^b Or the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) All conditional uses shall require site plan review as per Article 6 of these regulations.
- (2) In subdivision, PUD or conditional use review, non-agricultural site improvements, including principal and accessory structures and parking areas, shall be located within a designated building envelope.
- (3) In order to minimize the loss of productive agricultural land, impacts to existing farm operations and disruption to the rural character of the district, the building envelope shall be located in wooded areas, field edges, or on the least fertile soils available for development. Vegetated buffer zones between residential and agricultural uses may be required under site plan, conditional use or subdivision review.
- (4) PUDs are required for subdivision of all parcels 15 acres or larger in this district as per Article 8 of these regulations.
- (5) Access roads, driveways and utility corridors shall be shared to the extent feasible. Where sites include linear features such as existing roads, tree lines, stone walls, and fence lines, access roads, driveways and utility corridors shall follow these features in order to minimize the loss of productive agricultural land and reduce physical and visual impacts.
- (6) Development shall not conflict with accepted agricultural practices in this district. All permits issued for non-agricultural development in this district shall contain the following language: "This permit is being issued for development within an agricultural district. As such, it shall be understood as a condition of this permit that agricultural activities, if consistent with Accepted Agricultural Practices as defined by the Secretary of Agriculture Food and Markets and established prior to non-agricultural activities within this district shall be entitled to a rebuttable presumption that the activity is reasonable and does not constitute a nuisance. The presumption may be rebutted by showing that the activity has a substantial adverse effect on the public."
- (7) All subdivision, PUD and other land development permits and approvals shall include measures to ensure preservation of open space. The development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the rural qualities of the site as experienced both on site and from other vantage points in town (see Section 8.05 of these regulations).

Section 2.17. Shoreland District (SH)

(A) **Purpose.** To ensure that the design and construction of development in this district is accomplished in a manner which minimizes or eliminates the potential for flood hazard, erosion, loss of life or damage to property. To protect, conserve and enhance the shoreline of Lake Champlain, and the associated plant and animal species and natural habitats. To reinforce the historic pattern of camps along Lake Champlain. Land use in this district shall not create any erosion, nor damage any significant or unique resources such as plant or animal habitat. Many of these areas have limited road access and services and it is not the policy of the town, as stated in the *Ferrisburgh Town Plan*, to provide such service.

(B) **Permitted Uses.**

- (1) None

(C) **Conditional Uses.**

- (1) Accessory apartment
- (2) Accessory structure
- (3) Agriculture
- (4) Cemetery
- (5) Family childcare home
- (6) Group home
- (7) Home occupation
- (8) Marina
- (9) Outdoor recreation
- (10) Seasonal dwelling
- (11) Shoreline improvements
- (12) Single-family dwelling

(D) **Dimensional Standards.**

- | | |
|--|---------------------------------|
| (1) Minimum lot size | 2 acres |
| (2) Minimum lot frontage on Lake Champlain | 200 feet |
| (3) Minimum lot depth | 300 feet |
| (4) Maximum lot ratio | 1 to 3 |
| (5) Minimum setback from Lake Champlain | 80 feet ^a |
| (6) Minimum side yard setback | 25 feet |
| (7) Minimum rear yard setback | 25 feet |
| (8) Maximum building envelope | 20,000 square feet ^b |
| (9) Maximum lot coverage | 20% |
| (10) Maximum principal building footprint | 2,000 square feet |
| (11) Maximum accessory building footprint | 1,000 square feet |
| (12) Maximum principal building height | 35 feet |
| (13) Maximum accessory building height | 25 feet |

^a As measured from the mean water mark, 95.5 feet above mean sea level.

^b Or the minimum amount of land necessary to site a septic system and water system.

(E) **Other District Standards.**

- (1) PUDs are required for all subdivision on parcels 15 acres or larger where any portion of the parcel is located in the Shoreland District in accordance with the provisions of Article 8 of these regulations.
- (2) Because most of the lots in this zone pre-exist the town's first zoning bylaws and are non-conforming, all development shall receive site plan review in regard to sewage, water, access, frontage, visual character and building design.
- (3) The permit application shall not be deemed complete and cannot be acted upon until all necessary State permits including Shoreland Encroachment, US Army Corps of Engineers, Wastewater, well placement with isolation area have been received, or written notice from respective Agency that they are not applicable.
- (4) Placement of all wastewater systems and replacement fields and wells with associated isolation areas shall require notice to neighbors prior to beginning construction.
- (5) The development must be in full compliance with the flood hazard regulations as per Section 2.20 of these regulations, 24 VSA § 4424, and federal law.

Section 2.18. Conservation Overlay District (CONO)

- (A) **Purpose:** To provide some protection for those smaller acreage areas in Town where there are fragile ecosystems such as small (less than 10 acres) Class II Wetlands, Class II Wetlands not included in the Conservation District, and natural habitats with species of plants or animals listed in the nature heritage list.
- (B) **Permitted Uses.**
- (1) Agriculture
 - (2) Forestry
- (C) **Conditional Uses.**
- (1) All other uses permitted or conditional in underlying district except as prohibited in Paragraph (D) below.
- (D) **Prohibited Uses.**
- (1) Aircraft landing strip
 - (2) Home-based business 2
- (E) **Dimensional Standards.** As specified in the underlying district.
- (F) **Other District Standards.**
- (1) All conditional uses shall require site plan review in regard to wastewater, water, access, frontage, landscaping, building design and visual character.
 - (2) A permit application shall not be considered complete until all required state or federal permits have been obtained, including but not limited to wetlands determination, Corps of Engineers, flood hazard determination, and shorelands encroachment.
 - (3) All land development, including subdivision, shall include measures to ensure preservation of open space.
 - (4) Development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the rural character of the district as experienced both on site and from other vantage points in town.
 - (5) Development in this district could result in significant impacts on wildlife and water quality, as well as visual character. Such impacts would be directly contrary to the Town Plan and these zoning regulations. Therefore, the Zoning Board of Adjustment or Planning Commission must impose all possible mitigating measures upon issuance of a permit.
 - (6) Mitigating factors, in addition to any other required or suggested by these regulations shall include minimizing the area of forest cleared for the house site, protection of any Vermont Natural Heritage sites, requirement of a significant visual buffer around the building, use of non-reflective roof material. Other protective mitigation may include protection of cover, food sources, ground and surface waters, nesting and denning sites, vernal pools and wildlife.
 - (7) PUDs are required for all subdivisions on parcels 15 acres or larger as per Article 8 of these regulations.

Section 2.19. Forest Upland Overlay District (FUO)

- (A) **Purpose.** To provide some additional protection to upland areas with forest cover and/or shallow soils and steep slopes, and areas of wildlife habitat including those listed as natural heritage sites.
- (B) **Permitted Uses.**
- (1) Agriculture
 - (2) Forestry
- (C) **Conditional Uses.**
- (1) All other uses permitted or conditional in underlying district except as prohibited in Paragraph (D) below.
- (D) **Prohibited Uses.**
- (1) Aircraft landing strip
 - (2) Home-based business 2
- (E) **Dimensional Standards.** As in underlying district.
- (F) **Other District Standards.**
- (1) All development shall require review in regard to wastewater, water, access, frontage, landscaping, and visual character.
 - (2) A permit application shall not be considered complete until all required state or federal permits have been obtained, including Wetlands determination.
 - (3) All land development, including subdivision, shall include measures to ensure conservation of forestland and open space to minimize the impact of forest fragmentation.
 - (4) Development shall be designed to minimize loss of forest, and loss of natural habitat, and to minimize impact on water quality, and diminishment of the rural character of the district as experienced both on site and from other vantage points in town.
 - (5) Development in this district could result in significant impacts on wildlife, water quality and visual character. Such impacts would be directly contrary to the Town Plan and these zoning regulations. Therefore, the Zoning Board of Adjustment or Planning Commission must impose all possible mitigating measures upon issuance of a permit to ensure no undue adverse impact on the forest upland resources.
 - (6) Mitigating factors, in addition to any other required or suggested by these regulations shall include minimizing the area of forest cleared for the house site, protection of any Vermont natural heritage sites, requirement of a significant visual buffer around the building, use of non-reflective roof material. Other protective mitigation may include protection of cover, food sources, ground and surface waters, nesting and denning sites, vernal pools and wildlife.
 - (7) PUDs are required for all subdivisions on parcels 15 acres or larger as per Article 8 of these regulations.

Section 2.20. Flood Hazard Overlay District (FHO)

- (A) **Purpose.** To implement the purposes of 10 VSA Chapter 32 and in accordance with 24 VSA § 4410 or 4424, the Town of Ferrisburgh has established the following regulations for areas of special flood hazard. It is the purpose of these regulations to promote public health, safety and welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard, and to minimize losses due to floods by:
- (1) Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood or cause excessive increase in flood heights or velocities;
 - (2) Requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction; and
 - (3) Protecting individuals from buying lands that are unsuited for their intended purposes because of flood hazard.
- (B) **Lands to Which These Regulations Apply.** These regulations shall apply to all lands in the Town of Ferrisburgh identified as areas of special flood hazard on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs). The Official Flood Hazard Area Map shall consist of the FEMA Flood Insurance Study, including the Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps. The Official Flood Hazard Area Map, together with all their explanatory matter, is hereby adopted by reference and declared part of these regulations. The FIRMs shall be kept on file in the Ferrisburgh Town Clerk's Office. An unofficial, small-scale map of special flood hazard areas is attached to these regulations for informational purposes only. Anyone seeking an official determination of flood hazard area boundaries should contact the Zoning Administrator and use the official maps.
- (C) **Permitted Required.** A permit is required for all development in this overlay district. Upon issuance of a permit by the Zoning Administrator and after conditional use review by the ZBA as applicable, the following open space uses shall be allowed within the area of special flood hazard provided that they do not require the erection of structures, the storage of materials and equipment, the borrowing of fill from outside the flood hazard area, or channel modification or relocation, and provided that they do not obstruct flood flows, affect the water-carrying capacity of the regulatory floodway or channel, or increase offsite flood damage potential.
- (D) **Permitted Uses.**
- (1) Agriculture
 - (2) Nature preserve
 - (3) Wildlife refuge
- (E) **Conditional Uses.**
- (1) Maintenance and repair of present structures and uses.
 - (2) Outdoor recreation not to include camps, tennis courts, golf courses or driving ranges.
- (F) **Dimensional Standards.** As in underlying district.

(G) Other District Standards.

- (1) All proposed development shall be reviewed to assure that all necessary federal and/or state permits have been received.
- (2) All land development shall be reasonably safe from flooding.
- (3) All public utilities and facilities shall be located and constructed to minimize or eliminate flood damage.
- (4) All development, including improvements to buildings, access to waterways and Lake Champlain, and shoreline or bank retaining walls, shall require site plan review.
- (5) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- (6) No buildings shall be erected within mapped flood hazard areas.
- (7) Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
- (8) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (9) The substantial improvement of any dwelling shall have the first floor and basement floor elevated to or above the base flood elevation.
- (10) All new construction or substantial improvement of non-residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation, or be flood proofed below the base flood level so that 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 the effect of buoyancy.
- (11) All new construction and substantial improvements 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 flood waters. Designs for meeting this requirement must be either 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 flood waters:
- (12) Structures shall be:
 - (a) Designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure during the occurrence of the base flood;
 - (b) Be constructed with materials resistant to flood damage;
 - (c) Be constructed by methods and practices that minimize flood damage; and
 - (d) Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.

- (13) All new and replacement water supply systems shall be designed to minimize or prevent the infiltration of flood waters into the system.
 - (14) All new and replacement wastewater treatment systems shall be designed and located to minimize or prevent the infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. All onsite wastewater treatment systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (15) Replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
- (H) **Review Criteria.** In reviewing applications, each of the following shall be considered:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (2) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under conditions of flooding;
 - (4) The susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owners;
 - (5) The importance of any services provided by the proposed development to the community;
 - (6) The necessity to the development of a waterfront location;
 - (7) The availability of alternative locations not subject to flooding for the proposed development;
 - (8) The compatibility of the proposed development to existing development and development anticipated in the foreseeable future;
 - (9) The compatibility of the proposed development with the *Ferrisburgh Town Plan*;
 - (10) The safety of access to the property in times of flood of ordinary and emergency vehicles;
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
 - (12) The cost of providing governmental and public facilities and services during and after flooding; and
 - (13) Such other factors as are relevant to the purposes of this ordinance.
- (I) **Application Procedures.** Applications for development within mapped flood hazard areas shall include the following:
- (1) A surveyed site plan indicating the boundary of the flood hazard area;
 - (2) Base flood elevation data for all proposed new development;
 - (3) The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of any dwelling to be substantially improved;
 - (4) Where flood proofing is proposed in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement will be flood proofed;
 - (5) Certification from a registered professional engineer or architect that the designed and proposed method of construction of structures to be flood proofed is in accordance with accepted standards of practice for meeting the flood proofing criteria of these regulations; and
 - (6) A description of the extent to which any watercourse will be altered or relocated because of the proposed development.

(J) Administration.

- (1) The Zoning Administrator shall maintain a record of:
 - (a) All permits issued for development in areas of special flood hazard;
 - (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 and whether or not such structures contain a basement;
 - (c) The elevation, in relation to mean sea level, to which such structures have been flood proofed;
 - (d) All flood proofing certification required under this regulation; and
 - (e) All variance actions, including justification for their issue.
- (2) The Zoning Administrator shall, to the extent possible, submit to the FEMA Administrator the information required by the FEMA annual report form with respect to the administration and enforcement of these flood hazard area bylaws.
- (3) A copy of the annual report shall be submitted to the state coordinating agency.
- (4) In accordance with 24 VSA § 4424, no permit may be granted for new construction or the development of land in any area designated as a flood plain by the Vermont Agency of Natural Resources, Department of Environmental Conservation, Water Quality Division prior to the expiration of a period of 30 days following the submission of a report to the Vermont ANR, DEC, Water Quality Division.
- (5) The Zoning Administrator shall provide the Zoning Board the evaluation of the Vermont Agency of Natural Resources, Department of Environmental Conservation, Water Quality Division which the Zoning Board shall consider when determining whether the proposed use will conform to the development standards of Article 7 of these regulations.
- (6) The Zoning Board of Adjustment shall notify adjacent communities and the Agency of Natural Resources, Department of Environmental Conservation, Water Quality Division prior to approval of an alteration or relocation of a watercourse and shall submit copies of such notifications to the FEMA Administrator.
- (7) The Secretary of the Zoning Board of Adjustment shall transmit one copy of the information required by state and federal regulations to the Agency of Natural Resources, Department of Environmental Conservation, Water Quality Division in accordance with 24 VSA § 4424 (2)(D)(i).

(K) Waivers. No waivers shall be granted for development within designated flood hazard areas.

(L) Variances. Requests for variances will be reviewed under Section 4.02 of these regulations, including but not limited to the criteria specific to variances with designated flood hazard areas.

(M) Warning of Disclaimer of Liability. These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability of the part of the Town of Ferrisburgh or any town official or employee for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made under these regulations.

(N) Definitions. The National Flood Insurance Program definitions as contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. The definitions of some common terms are included in Section 11.03 of these regulations.

Article 3. Administration, Permits and Enforcement

Section 3.01. State Limitations

- (A) Pursuant to 24 VSA § 4413, the following uses may only be regulated with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-road parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that the regulations do not have the effect of interfering with the intended functional use:
- (1) State or community owned and operated institutions and facilities;
 - (2) Public and private schools and other educational institutions certified by the state;
 - (3) Churches and other places of worship, convents and parish houses;
 - (4) Public and private hospitals;
 - (5) Regional solid waste management facilities certified by the state; and
 - (6) Hazardous waste management facilities certified by the state.
- (B) It is the intent of these regulations to regulate the facilities listed in (A) above to the maximum extent allowable under law. Accordingly the Town of Ferrisburgh chooses to locate uses (4), (5), and (6) in the Highway Commercial District.
- (C) All uses listed in (A) above shall be subject to those criteria of conditional use review and any other portion of these regulations that pertain to those aspects that may be regulated.
- (D) **Agriculture and Forestry.** Pursuant to 24 VSA § 4413, these regulations do not apply to accepted agricultural and silvicultural practices, including the construction of farm structures, as defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation.
- (1) A farmer operator intending to build or extend a farm structure shall notify the Zoning Administrator, using a standard permit, which shall be recorded in the Town Land Records.
 - (2) The permit application shall include a sketch of the proposed structure including setback distances from road and neighbors.
 - (3) The farm structure shall abide by the setbacks specified in the ordinance unless they provide a written approval of lesser setbacks by the Secretary of Agriculture Food and Markets.
 - (4) All farm structures within the Flood Hazard Overlay District shall comply with the requirements of the National Flood Insurance Program (see Section 2.20 of these regulations).
 - (5) The town may report violations of accepted agricultural or silvicultural practices to the appropriate state authorities for enforcement.
- (E) **Hunting.** Pursuant to 24 VSA § 4413(e), these regulations shall not restrict hunting, fishing and trapping.
- (F) **Public Utility.** Pursuant to 24 VSA § 4413(b), public utility facilities, including transmission as regulated under 30 VSA § 248, are exempt from permitting except as specified in 24 VSA § 4413(a) and further specified in these regulations at Section 3.01.

Section 3.02. Use Exemptions

- (A) The following structures or activities do not require a zoning permit, but must be built or undertaken in accordance with the provisions of these regulations:
- (1) **Short Fence.** A residential fence or wall less than four feet high or any landscaping which does not interfere with corner visibility at a highway intersection or corner; any farm fence for agricultural purposes.
 - (2) **Small Deck.** A residential terrace, patio, steps, handicap ramp or deck smaller than 144 square feet at ground level.
 - (3) **Small Structure.** A dog house, or child's play house, or tree shed, or shed or similar structure with a floor area of not more than 100 square feet, with a height of no more than 10 feet, AND not attached to the ground or having a permanent foundation, may be located within any yard, but not closer than 10 feet from any property line. Only one such structure per lot or property shall be deemed exempt.
 - (4) **Small Pond.** A small pond, provided that such pond does not affect drainage on other properties.
 - (5) **Small Pool.** Small above ground swimming pool less than 3 foot in depth.
 - (6) **Routine Repair.** Routine repair and maintenance of a structure that does not change the use of the structure, such as: new siding, new roofing, door and window replacements and similar work.

Section 3.03. Setback Exemptions

- (A) The following enumerated structures, while requiring a zoning permit and potentially conditional use and/or site plan review, shall be exempt from setback requirements:
- (1) Boat launches
 - (2) Docks
 - (3) Boat hoists
 - (4) Steps and any necessary structure to allow access to Lake Champlain
 - (5) Fences
 - (6) Signs

Section 3.04. Fees

- (A) The Selectboard shall establish all fees to be charged with respect to the administration of these regulations, including those portions of these regulations addressing subdivisions, flood plains and PUDs, with the intention of covering costs of administering the same.
- (B) The validity of any permit shall be contingent upon payment of such fee in accordance with the fee schedule and policy. Such fees are non-refundable and due at time of application for a permit.

Section 3.05. Zoning Administrator

- (A) The Zoning Administrator (ZA) shall be nominated by the Planning Commission and approved by the Selectboard for a three-year term.

- (B) The ZA is subject to any personnel policies legally adopted by the town. After consultation with the Planning Commission, the Selectboard may remove the ZA at any time for cause.
- (C) The ZA shall administer the zoning regulations as provided in 24 VSA § 4448.
- (D) The ZA shall literally enforce the provisions of these regulations and in doing so shall inspect developments, maintain records and perform all the following duties:
 - (1) Issue Permits. Issue permits for development that conforms to these regulations, and certificates of occupancy for developments that conform to their permit, and other duties associated with the issuance of permits as described in 24 VSA § 4449.
 - (2) Assist Applicants. Provide necessary forms, answer questions about the application review process, direct applicant to other permits such as state or federal permits, wastewater permits, wetlands determination, access permits, which may be needed for their proposed development.
 - (3) Make Inspections. Inspect structures or land in order to carry out enforcement of these regulations.
 - (4) Notify state agencies of development in the municipality according to 24 VSA § 4424 relating to flood hazards.
 - (5) Maintain records of all applications for permits and Certificates of Occupancy issued or refused with notations thereon of all special conditions involved..
 - (6) File copies of all plans submitted to the ZA and keep records of all actions taken pursuant to these regulations.
 - (7) Forward completed applications to the appropriate municipal panel (AMP) as necessary and required.
 - (8) Post and mail notices of public hearing and decisions for all permits as detailed in these regulations.
 - (9) Initiate enforcement actions under these regulations.
 - (10) Other Duties. Carry out other duties as apparent or as assigned by the Planning Commission.
- (E) The ZA will coordinate a unified effort for the Town of Ferrisburgh in administering its development review programs. The ZA will provide applicants with all forms required to obtain permits or approvals under these bylaws and should assist applicant in navigating the town's regulatory processes. The ZA will inform applicants applying for town permit or approvals to contact the state's regional permit specialist in order to assure timely action on any related state permits. However, it remains the applicant's responsibility to identify, apply for and obtain the necessary state permits.
- (F) Because decisions and actions of the Zoning Administrator are appealed to the Zoning Board of Adjustment, the ZA shall not:
 - (1) Serve as clerk for the Zoning Board of Adjustment;
 - (2) Take minutes for the ZBA; nor
 - (3) Draft decisions for the ZBA.

- (G) **Deeming Applications Complete.** The Zoning Administrator shall receive all applications for development review and appeals, except for appeals of a decision or act of the ZA, by the AMP and review them for completeness as specified below:
- (1) The applicant shall submit to the ZA at least 25 days prior to the regular meeting of the AMP, one original and at least three copies of those materials required by the provisions of these regulations or any application forms approved by the AMP for the type of action requested.
 - (2) The ZA shall make a written determination as to whether the application appears to be complete. An obviously incomplete application shall be returned to the applicant with a request for further information.
 - (3) The Zoning Administrator, acting for the AMP, shall not schedule a public hearing on an application until the ZA has determined that the application is complete.

Section 3.06. Acting Zoning Administrator

- (A) The Planning Commission may nominate and the Selectboard may appoint an acting zoning administrator who shall have the same duties and responsibilities as the Zoning Administrator in the ZA's absence or when the ZA has a conflict of interest.

Section 3.07. Zoning Permit

- (A) Except as specifically exempted in Section 3.01 or Section 3.02 of these regulations or in the Act, no land development shall commence without a zoning permit issued by the Zoning Administrator as provided for in the Act.
- (B) No zoning permit may be issued by the Zoning Administrator except in conformance with these regulations, the provisions of the Act and the following:
- (1) No zoning permit shall be issued by the ZA for any development that requires the approval of an AMP until such approval has been obtained.
 - (2) No zoning permit shall be issued by the ZA for development on a lot for which subdivision approval is required until such approval has been obtained and the plat has been properly recorded.
 - (3) No permit for development within the Flood Hazard Overlay District shall be issued by the ZA until the 30-day comment period required by state law has elapsed.
- (C) The Zoning Administrator shall not issue a permit or take action to submit it to the appropriate municipal panel until the application is deemed complete. In order for an application to be deemed complete, the applicant shall submit a completed application form supplied by the Zoning Administrator; all fees, site plans, plat plans, and required supplementary information shall be included in order for an application to be deemed complete.
- (D) The ZA will deliver a copy of a permit to the Listers and will post a copy of the permit at the Town Office within three days after issuing a permit. The permit must be posted for a period of 15 days from that date of issuance.
- (E) The notice of a zoning permit must be posted on the property within view of the nearest public right-of-way for a period of 15 days from the date of issuance. The ZA will provide the applicant

with a form for posting as prescribed by the town. The applicant is responsible for posting the notice and ensuring that it remains posted throughout the appeal period.

- (F) All activities authorized by the issuance of a permit shall be substantially commenced within one year of the date of approval and completed within two years of the date of approval or the permit shall expire and the applicant shall need to re-apply before commencing activity. However, upon request of the applicant the Zoning Administrator may renew a permit for one-year periods, if the request is made while the permit is still valid and the circumstances under which the original permit was issued have not materially changed.
- (G) **Revocation of Zoning Permits and Approvals.** The Zoning Administrator may declare a zoning permit invalid upon finding that the application contained any misrepresentation or material inaccuracies.

Section 3.08. Application for a Zoning Permit

- (A) Any person desiring to undertake any activity requiring a zoning permit shall complete an application for a zoning permit and submit it with all required information to the Zoning Administrator.
- (B) The application shall include all of the following to be deemed complete:
 - (1) Permit fee.
 - (2) Complete application identifying the applicant, the owner, the location of the tax parcel to be improved, parcel identification number, book and page number of the deed and a description of the proposed improvements and uses.
 - (3) The application shall also include a site plan identifying the location of the parcel and accurately depicting the improvement proposed in relationship to all lot lines, showing set back requirements, and other structures on the parcel. Any sheet of the site plan shall not be more than 24 inches by 36 inches, drawn to scale, showing north.
 - (4) The drawing shall depict the shape, design, size and height of the structure, including all driveways, parking areas, utilities, drainage and other proposed improvements.
 - (5) The site plan shall show location of all streams and ponds on the parcel, and indicate if there may be Class II wetlands or if the parcel lies in a mapped Flood Hazard Area.
 - (6) An access permit signed by the Selectboard, or its designated agent, regarding access and curb cuts, driveways, culverts and if required drainage along town roads or a written statement that a curb cut or access permit shall not be required for development.
 - (7) Other town, state or federal permits necessary prior to construction of any proposed structure, including but not limited to wastewater treatment and potable water permits, conditional use approval, wetlands permits, and stormwater permits.
 - (8) All residential and commercial buildings require wastewater treatment systems designed and installed in accordance with State of Vermont standards. Plans are required as part of any zoning application, and a letter or statement from a licensed engineer affirming that the system meets or will meet state standards and is approved for a specific number of bedrooms.

- (9) A statement as to whether or not Act 250 applies or may apply to the proposed development.
- (10) In certain cases, exempt uses and structures may be required to file a permit application so that the ZA can confirm that all or a portion of the activity or structure is in fact exempt.

Section 3.09. Action by Zoning Administrator on an Application

- (A) Within 30 days after submission of a complete application for a zoning permit, the ZA shall:
 - (1) Approve the permit with appropriate conditions; OR
 - (2) Deny the permit, stating the reasons therefore in writing and immediately mailing notice of such denial to the applicant at the address indicated on the application; OR
 - (3) Determine that the application requires action by either the Planning Commission or Zoning Board of Adjustment, in which case the ZA shall evaluate the application for completeness and either return it to the applicant for more information or deem it complete and work with the applicant to schedule a hearing before the appropriate municipal panel.
- (B) Failure by the ZA to take action on a permit application within 30 days of receiving an application that is deemed complete shall result in the permit being deemed approved, except that permits for development within the flood hazard area shall not be issued until the required 30-day comment period has elapsed as per Section 2.20 of these regulations.

Section 3.10. Effect of Issuance of Zoning Permit

- (A) No permit issued pursuant to this section shall take effect until the time for appeal in 24 VSA § 4465 has passed.
- (B) In the event that a notice of appeal is properly filed, no permit shall take effect until adjudication of that appeal by the appropriate municipal panel is complete and the time for appeal to the Environmental Court has passed without an appeal being filed (Section 4.04).
- (C) If an appeal is made to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance with 10 VSA § 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first (Section 4.04).

Section 3.11. Certificate of Occupancy

- (A) It shall be unlawful to use or occupy, or permit the use or occupancy, of any land or structure, or part thereof, created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, unless a Certificate of Occupancy has been issued by the ZA stating that the proposed use of the land or structure conforms to the approved plans and specifications and the requirements and provisions of these regulations.
- (B) In case of a structure, the ZA shall inspect at the time the footings are in place and again when the structure is completed and deemed by the owner to be ready for occupancy before issuance of a Certificate of Occupancy.

Section 3.12. Certificate of Compliance

- (A) Upon request or as specified in these regulations, the ZA may issue a Certificate of Compliance stating whether a parcel of land has any outstanding violations or permits.
- (B) The ZA shall review all pertinent records on file in the Town Office and may visit the property in question before issuing a Certificate of Compliance.

Section 3.13. Appropriate Municipal Panels

- (A) Three bodies constitute appropriate municipal panels in Ferrisburgh, the Planning Commission, the Zoning Board of Adjustment and the Selectboard. The appropriate municipal panel (AMP) shall be responsible for conducting quasi-judicial reviews of specific types of applications as specified in these regulations. The appropriate municipal panel shall adopt rules of procedure and ethics, and follow public notice requirements, requirements regarding decisions, appeals and all other administrative matters as set forth in Act and in these regulations.
- (B) **Advisory Committees and Commissions.** AMPs may call upon advisory committees or commissions, such as the Ferrisburgh Conservation Commission, to provide advice on applications and other assistance with their duties as provided in 24 VSA § 4464(d).
- (C) **Independent Consultant.** Upon submission of an application, an AMP may determine it needs the assistance of an independent consultant or consultants to evaluate the application. Upon making such a determination, the AMP may hire independent consultants, the reasonable costs of whose services shall be paid for by the applicant. Upon such determination, the applicant shall place in escrow sufficient funds to cover such costs as estimated by said consultant(s). All such consultants shall be qualified professionals with an appropriate combination of training, record of service and or certification in the related field.
- (D) **Concurrent Review.** If more than one review is required for a project, the reviews shall be conducted concurrently by the AMPs to the extent feasible. The following shall apply:
 - (1) Notice for a concurrent review hearing shall be made in accordance with Section 3.16 of these regulations. The hearing notice shall include a statement that the hearing will be a concurrent review of the proposed project and list each review processes that will be conducted at the hearing.
 - (2) All hearing and decision requirements, and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the concurrent review, but they should be coordinated where appropriate.
 - (3) The Zoning Administrator shall identify proposed projects appropriate for concurrent review and assist applicants in preparing and submitting coordinated applications to facilitate concurrent review.

Section 3.14. Planning Commission

- (A) The Town of Ferrisburgh Planning Commission (PC) will of members to be appointed by the Selectboard for three-year terms. The Selectboard shall fill vacancies on the PC by appointment for the expired term. The Selectboard, upon written charges, may remove any member of the PC for

just cause. There shall be at least one person who serves on both the Zoning Board of Adjustment and the Planning Commission.

(B) **Functions.** The Planning Commission has the following functions:

- (1) Prepare and update the Town Plan every five years and amend as necessary.
- (2) As needed, prepare and amend these regulations, and any bylaws, ordinances and other regulations as permitted under the Act.
- (3) Resolve any disputes regarding the interpretation of district boundaries on the Official Zoning Map.
- (4) Nominate a Zoning Administrator as per Section 3.05 of these regulations.
- (5) Serve as the appropriate municipal panel to:
 - (a) Hear and grant or deny approval for planned unit development applications as set forth in Article 8 of these regulations.
 - (b) Hear and grant or deny approval for subdivision applications as set forth in Article 9 of these regulations.
 - (c) Review requests for rights-of-way or other changes requested to plats of record.
 - (d) Hearing and grant or deny requests for boundary adjustments.
 - (e) Hearing and grant or deny requests for waivers associated with PUD or subdivision applications as set forth in Section 4.03 of these regulations.
- (6) Undertake capacity studies.
- (7) Perform other such functions as dictated in 24 VSA § 4325 and as it deems necessary and appropriate to fulfill its duties and obligations.

Section 3.15. Zoning Board of Adjustment

(A) The Town of Ferrisburgh Zoning Board of Adjustment (ZBA) will consist of members to be appointed by the Selectboard for three-year terms. The Selectboard shall fill vacancies on the ZBA by appointment for the expired term. The Selectboard, upon written charges, may remove any member of the ZBA for just cause. There shall be at least one person who serves on both the Zoning Board of Adjustment and the Planning Commission

(B) **Functions.** The Zoning Board of Adjustment has the following functions:

- (1) Hear and grant or deny appeals of the actions or decisions of the Zoning Administrator as per Section 4.01 of these regulations.
- (2) Hear and grant or deny requests for variances as per Section 4.02 of these regulations.
- (3) Hear and grant or deny conditional use approval as per Article 7 of these regulations.
- (4) Hear and grant or deny requests for waivers, except those associated with PUD or subdivision applications, as per Section 4.03 of these regulations.
- (5) Any other form of land use regulation for which the ZBA is the appropriate municipal panel as authorized by these regulations.

Section 3.16. Public Notice

- (A) Pursuant to 24 VSA § 4464, a warned public hearing shall be required for the following:
- (1) Conditional use review (Article 7)
 - (2) Site plan review (Article 6)
 - (3) Appeal of acts or decisions of the Zoning Administrator (Section 4.01)
 - (4) Variance (Section 4.02)
 - (5) Waiver (Section 4.03)
 - (6) Planned unit development (Article 8)
 - (7) Boundary adjustment (Article 9)
 - (8) Subdivision (Article 9)
- (B) Public notice of hearings shall be given not less than 15 days prior to the date of the public hearing by all of the following mechanisms:
- (1) Publication of the date, place, time and purpose of the hearing in a newspaper of general circulation in the area. The ZA or Clerk of the Planning Commission shall place the notice in the paper;
 - (2) Posting the same information in three or more public places within the municipality in conformance with the location requirements of 1 VSA § 312. One of the public posting places must be on the property within view of the nearest public right-of-way. The Town of Ferrisburgh will provide the property owner with a form for posting. It is the responsibility of the property owner to ensure that the notice remains posted for the entire warning period; and
 - (3) Written notification to the applicant or appellant, property owner (if not the applicant or appellant) 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 local proceeding is a prerequisite to the right to take any subsequent appeal. The clerk shall be responsible for notifying all adjoining landowners by mail or hand delivery, and for maintaining a Service List and copy of the letter sent or delivered.
 - (4) In addition, the ZA or Clerk may also place the notice on the Town of Ferrisburgh website.
- (C) The applicant shall submit to the ZA at least 25 days prior to the regular meeting of the AMP, one original and three copies of those materials required by the appropriate section of these regulations.
- (D) No defect in the form or substance of any requirement in the notice procedure above shall invalidate the action of the AMP where reasonable efforts are made to provide adequate posting and notice, and where the defect was not materially misleading in content pursuant to 24 VSA § 4464(a)(5).
- (E) The AMP may recess a hearing on any application pending submission of additional information. Hearings that are recessed to a known date and time do not require further warnings when resumed.

Section 3.17. Hearings

- (A) Pursuant to requirements of 24 VSA § 4461 for development review and 24 VSA § 4468 for appeals, the AMP shall set a date and place for public hearing of an application or an appeal that shall be within 60 days of the filing of a complete application or a notice of appeal.
- (B) The AMP shall give public notice of the hearing as per Section 3.16 of these regulations.
- (C) Any person or body empowered by 24 VSA § 4465 to participate as an interested person or to take an appeal with respect to the property at issue may appear and be heard in person, submit written testimony, or be represented by an agent or attorney at the hearing.
- (D) The AMP may recess the hearing from time to time pending submission of additional information provided that the date and place of the recessed hearing shall be announced at the hearing.
- (E) All hearings are open to the public and the Rules of Evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 VSA § 810.

Section 3.18. Decisions

- (A) Pursuant to 14 VSA § 4464(b)(1), the AMP should close the hearing promptly after all parties have submitted the requested information.
- (B) The AMP shall adjourn the hearing and issue a decision within 45 days after adjournment of the hearing.
- (C) The decision shall be in writing, and shall include the findings of fact upon which the AMP has made its conclusions.
- (D) In rendering a decision in favor of the applicant, the AMP may attach reasonable conditions and safeguards as it deems necessary to implement the provisions of these regulations and the policies of the *Ferrisburgh Town Plan*.
- (E) Copies of the decision shall be mailed to the applicant or appellant by certified mail.
- (F) Copies of the decision shall also be mailed to every interested person who appeared and was heard at the hearing.
- (G) A copy of the decision shall be filed with the ZA and with the Town Clerk who shall record the decision as public record.
- (H) If the AMP fails to make its decision within 45 days, on the 46th day the AMP shall be deemed to have rendered a decision in favor of the applicant or in the case of an appeal, the permittee.

Section 3.19. Performance Bond

- (A) Pursuant to 24 VSA § 4464(4), (5) and (6) the AMP may require the applicant to furnish the town with a performance bond up to the value of the cost of the work or improvement to be guaranteed by such bond in order to assure the proper development and conditions specified by

the zoning board. The AMP may determine the amount of the bond or certified check based upon the recommendations of a professional consultant hired by the town.

- (B) The performance bond shall be of fixed term, established by the AMP, but no longer than three years, except as provided in 24 VSA § 4464(6).
- (C) The Selectboard may enter into agreements governing any combination of the timing, financing and coordination of private or public facilities in accordance with the terms and conditions of a municipal land use permit provided that agreement complies with all applicable regulations in effect.

Section 3.20. Violations and Enforcement

- (A) The commencement or continuation of any development or use that is not in conformance with the provisions of these regulations shall constitute a violation. Each day that a violation continues constitutes a separate offense. The Zoning Administrator shall undertake appropriate action, following the procedures outlined below, to enforce the provisions of these regulations.
- (B) The ZA shall investigate all complaints regarding violations of these regulations. The ZA shall commence the procedures below upon determining that a violation has occurred. Decisions or actions of the ZA in relation to violations may be appealed as per Section 4.01 of these regulations. The ZA shall act to enforce the provisions of these regulations, but the ZA has the discretion to determine which enforcement path described below is most appropriate given the circumstances of the violation.
- (C) **Informal Resolution or Mediation.** Upon determination that there has been a violation of these regulations, the ZA may first contact the property owner by phone or in person in an attempt to informally resolve or mediate the violation. If such contact cannot be made or the matter is not resolved to the ZA's satisfaction within seven days, the ZA shall issue either a municipal ticket or a written notice of violation. The ZA shall maintain a written record of the violation and all actions taken to resolve it. If an informal resolution or mediation of the violation is successful, the property owner and ZA shall sign-off on the written record.
- (D) **Municipal Ticket.** To provide an alternative mechanism to ensure that minor violations of these regulations are corrected in a timely manner and, wherever possible, without the expense of attorneys, the ZA may choose to enforce the provisions of these regulations as a civil violation through the Judicial Bureau under the provisions of 24 VSA Chapter 59. The ZA may issue a municipal ticket using the forms provided by the Judicial Bureau. Should the fines for the violation exceed the limit that may be collected through the Judicial Bureau, the ZA shall request the ticket be transferred to Environmental Court.
 - (1) The official responsible for custody of the ticket forms shall be the Town Clerk.
 - (2) The official responsible for issuing tickets under this section shall be the Zoning Administrator.
 - (3) The official authorized to appear before the Judicial Bureau on behalf of the town in connection with these provisions shall be the Zoning Administrator or Town Clerk.

- (E) **Notice of Violation.** The ZA may determine that a violation is significant enough to warrant immediate issuance of a notice of violation under the provisions of 24 VSA § 4451. To issue such a notice, the ZA shall send the property owner a written notice of violation by certified mail. The notice shall:
- (1) Describe the violation and include a reference to the specific provisions of these regulations under which the property is in violation.
 - (2) Explain that the property owner has an opportunity to cure the violation within seven days.
 - (3) List the amount of the fine(s) for the violation, as set by the Selectboard, and explain that the fine(s) will be imposed for each day the violation continues after the seven-day period for curing the violation elapses.
 - (4) Notify the property owner that action may be brought without notice and the opportunity to cure if the violation is repeated within the succeeding 12 months.
- (F) **Legal Action.** If the violation is not cured within seven days after a notice of violation was received, the ZA should consult with the Selectboard to determine how the town will proceed. The ZA may negotiate a resolution to violations after the opportunity for cure has elapsed. The Selectboard must approve such resolutions.
- (G) **Recording.** The ZA shall submit all municipal tickets and notices of violation to the Town Clerk for filing in the land records. Upon resolution of the violation, a Certificate of Compliance may be requested. No Certificates of Compliance shall be issued for properties that have outstanding violations.
- (H) **Limitations on Enforcement.** Enforcement of the provisions of these regulations or of a failure to comply with the provisions of any land use permit must be instituted within 15 years from the date the violation first occurred.

Section 3.21. Penalties

- (A) **Civil Enforcement.** When necessary, these regulations shall be enforced through the civil court system.
- (B) **Fines and Penalties.** The Selectboard may establish fines up to the amount listed in the statute at 24 VSA § 4451. Penalties may include fines, injunctive action or any other lawful remedy the town may seek under state law.
- (C) **Separate Violations.** Each day that a violation is continued shall constitute a separate offence.
- (D) **Collection of Fines.** All fines collected for the violation of these regulations shall be paid to the Town of Ferrisburgh.
- (E) **Subsequent Violations.** An action may be brought without the seven-day notice and opportunity to cure, as described in Section 3.20, if the alleged offender repeats the violation of the bylaws or ordinances after the seven-day notice period and within the next succeeding 12 months.

Article 4. Appeals, Variances and Waivers

Section 4.01. Appeals of ZA Actions or Decisions

- (A) An interested person may appeal actions and decisions of the Zoning Administrator to the Zoning Board of Adjustment, which shall conduct hearings on appeals pursuant to the authority derived from and procedure contained in 24 VSA § 4465, 4466, 4468 and 4470.
- (B) **Deadline to Appeal.** An appeal taken with respect to an act or decision of the ZA shall be filed within 15 days of such act or decision.
- (C) **Filing a Notice of Appeal.** The appellant shall file a notice of appeal with the secretary of the ZBA or with the Town Clerk. The following information shall be included as part of the submittal:
 - (1) A copy of the original application and the written decision of the ZA;
 - (2) Name and address of the appellant;
 - (3) Name and address of the applicant, co-applicant or any person party to the original application;
 - (4) Brief statement of the property from which the appeal is taken;
 - (5) A reference to the provisions of these regulations applicable to that appeal;
 - (6) The relief requested, such as a variance or waiver; and
 - (7) The grounds as to why the relief requested is proper under the circumstances.
- (D) **Notification of Appeal.** If an interested person other than the applicant files the appeal, the Zoning Administrator will inform the applicant that an appeal has been filed and advise the applicant that the project cannot commence until the appeal has been decided as per Section 3.10 of these regulations.
- (E) **Public Hearing and Notice.** The Zoning Board of Adjustment shall hold a public hearing on a notice of appeal within 60 days of its filing. The hearing must be warned as per Section 3.16 of these regulations and the ZBA shall mail a copy of the hearing notice to the appellant and the applicant, if different, not less than 15 days prior to the hearing.
- (F) **Rejecting an Appeal.** The ZBA may reject an appeal without a hearing and render a decision within 10 days of the filing of a notice of appeal, if the ZBA determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on the same facts, by or on behalf of the appellant.
- (G) **Decision.** The ZBA must issue a written decision, with findings of fact, within 45 days after closing the hearing. The decision must be:
 - (1) Sent by certified mail to the applicant and appellant;
 - (2) Mailed to all interested persons who participated in the hearing; and
 - (3) Filed with the Zoning Administrator and Town Clerk.

Section 4.02. Variances

- (A) A variance may be requested by an applicant who has been denied a permit by the Zoning Administrator, who is appealing that decision and who is proposing a project that would require deviating from the provisions of these regulations.
- (B) The Zoning Board of Adjustment (ZBA) shall only grant a variance in conformance with 24 VSA § 4469. Variances shall not be granted to allow a use that is not permitted or conditional in the district in which the subject property is located.
- (C) **Application Procedure.** The steps to be taken to file and review a request for a variance are the same as those specified in Section 4.01 of these regulations, with the addition of the following:
 - (1) In addition to the submittal requirements listed in Section 4.01 of these regulations, the applicant's notice shall also include a brief response to each of the criteria listed in Paragraph G, as applicable.
 - (2) The ZBA shall make its decision on the request for variance by applying the facts presented in the application and at its hearing to the applicable criteria in Paragraph G of these regulations. All criteria shall be met for the ZBA to grant a variance. The ZBA shall respond to each condition in its written findings of fact.
 - (3) The applicant shall submit to the Zoning Administrator at least 25 days prior to the regular meeting of the ZBA one original and three copies of all submissions.
- (D) **Additional Submissions.** The ZBA may also require the following additional submissions:
 - (1) An accurate map of the property showing existing features, including contours relative to sea level, structures, large trees, utility easements, rights of way, land use and deed restrictions.
 - (2) A scaled plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscape plans including site grading, landscape design and screening.
 - (3) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 - (4) A description of energy utilization and conservation measures for each heated structure.
 - (5) Other information pertinent to the issue before the ZBA.
- (E) **Conditions for Variance.** In granting a variance, the ZBA shall act to ensure, and may impose conditions requiring that the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the land use regulations and town plan. The nature of any variance and any condition attached to it shall be entered on the face of the zoning permit, incorporated therein and shall be enforceable in the same manner as any other applicable requirements of these regulations.
- (F) **Notice, Hearing and Decision Process.** Notice shall be as per Section 3.16 of these regulations. A hearing shall be held in conformance with Section 3.17 of these regulations. The ZBA shall make its decision by applying the facts presented in the application and at hearing to the criteria listed above and incorporate all into its decision. Upon close of hearing, the ZBA shall render its decision as per Section 3.18 of these regulations.

(G) **General Criteria.** The ZBA shall only grant a variance if ALL of the following criteria are met:

- (1) 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 these regulations in the neighborhood or district in which the property is located.
- (2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) Unnecessary hardship has not been created by the appellant.
- (4) 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.
- (5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from these regulations and from the plan.

(H) **Renewable Energy Structure Criteria.** If a variance is being requested for a structure that is primarily a renewable energy resource structure, the ZBA shall only grant a variance if ALL of the following criteria are met:

- (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations.
- (2) The hardship was not created by the appellant.
- (3) 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.
- (4) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from these regulations and from the plan.

(I) **Flood Hazard Area Criteria.** In addition to the requirements of Paragraph G, the ZBA shall only grant a variance within the Flood Hazard Overlay District if ALL of the following criteria are met, in accordance with the Act and with CFR Section 60.6 of the National Flood Insurance Program:

- (1) No increase in flood levels during the base flood discharge would result.
- (2) The structure or other development is protected by methods that minimize flood damages.
- (3) The variance, if granted, would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or cause fraud on or victimization of the public.

Section 4.03. Waivers

(A) The AMP may grant applicants waivers to zoning district dimensional standards as authorized by 24 VSA § 4414(8) and as specified in these regulations. Waivers shall not be granted to allow a use that is not permitted or conditional in the district in which the subject property is located.

Waivers are intended to provide additional flexibility in the application of these regulations in addition to what is provided through the variance process as described in Section 4.02 of these regulations.

- (B) **Application Procedure.** The steps to be taken to file and review a request for a waiver are the same as those specified in Section 4.01 of these regulations, with the addition of the following:
- (1) In addition to the submittal requirements listed in Section 4.01 of these regulations, the applicant's request for a waiver shall also include a brief response to each of the criteria listed in Paragraph F, as applicable.
 - (2) The AMP shall make its decision on the request for a waiver by applying the facts presented in the application and at its hearing to the criteria listed below. All criteria shall be met for the AMP to grant a waiver. The AMP shall respond to each condition in its written findings of fact.
 - (3) The applicant shall submit to the Zoning Administrator at least 25 days prior to the regular meeting of the AMP one original and three copies of all submissions.
- (C) **Additional Submissions.** The AMP may also require the following additional submissions:
- (1) An accurate map of the property showing existing features, including contours relative to sea level, structures, large trees, utility easements, rights of way, land use and deed restrictions.
 - (2) A scaled plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscape plans including site grading, landscape design and screening.
 - (3) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 - (4) A description of energy utilization and conservation measures for each heated structure.
 - (5) Other information pertinent to the issue before the AMP.
- (D) **Conditions for Waiver.** In granting a waiver, the AMP may impose conditions on the waiver. The nature of any waiver and any condition attached to it shall be entered on the face of the zoning permit or subdivision approval, incorporated therein and shall be enforceable in the same manner as any other applicable requirements of these regulations.
- (E) **Notice, Hearing and Decision Process.** Notice shall be as per Section 3.16 of these regulations. A hearing shall be held in conformance with Section 3.17 of these regulations. The AMP shall make its decision by applying the facts presented in the application and at hearing to the criteria listed above and incorporate all into its decision. Upon closing the hearing, the AMP shall render its decision as per Section 3.18 of these regulations.
- (F) **Criteria for Waiver of Dimensional Standards.** The AMP may grant waivers to reduce dimensional requirements if the applicant can satisfy all of the following standards:
- (1) The waiver is for a use allowed within the district in question;
 - (2) The waiver requested is in conformance with the *Ferrisburgh Town Plan* and the goals set forth in 24 VSA § 4302.

- (3) The waiver requested is designed to conform to the character of the land use area in which the property is located as defined in the *Ferrisburgh Town Plan* and further designed to reasonably limit impact or the potential for impact upon neighbors.
 - (4) The waiver being requested is a reasonable request and would not result in development or use of property that would offend the sensibilities of the average person.
- (G) **Criteria for Waiver of Submission Requirements.** In considering requests for waivers to submission requirements, the AMP shall consider whether:
- (1) The submission requirement is relevant to the proposed project or property in question.
 - (2) Providing the requested information would result in an excessive and undue expense to the applicant.

Section 4.04. Appeals from the Appropriate Municipal Panel to Environmental Court

- (A) An interested person who has participated in a proceeding before an AMP may appeal a decision rendered in that proceeding to the Environmental Court.
- (B) Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.
- (C) An appeal from a decision of an AMP shall be taken by filing notice of appeal as outlined below and pursuant to VRECP 5.
- (D) Appeals from the AMP shall be governed in the same manner as appeals from state agencies outlined in 3 VSA § 801 through 816 governing administrative procedures.
- (E) Notice of a the appeal shall be filed by certified mailing with fees to the Environmental Court and by mailing a copy to the municipal clerk or Zoning Administrator, if so designated, who shall supply a list of interested persons to the appellant within five working days.
- (F) Upon receipt of the list of interested persons the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and if any more than one of those persons are not party to the appeal, upon motion they shall be granted leave by the court to intervene.

Section 4.05. Interested Person

- (A) Pursuant to 24 VSA § 4465, an interested person is:
 - (1) The owner of property that is the subject of any decision made under these regulations;
 - (2) The Town of Ferrisburgh or any adjoining municipality;
 - (3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision made under these regulations, who can demonstrate a physical or environmental impact on the their interest under the criteria reviewed, and who alleges that the decision, if confirmed, will not be in accord with the *Ferrisburgh Town Plan* or the regulations of the town;
 - (4) Any ten people who may be any combination of voters or real property owners within the Town of Ferrisburgh who, by signed petition to the appropriate municipal panel, allege that any relief requested by a person under these regulations, if granted, will not be in accord with the *Ferrisburgh Town Plan* or the regulations of the town. This petition must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal; or

- (5) Any department and administrative subdivision of this state owning property or any interest in property within the town, and the Vermont Agency of Commerce and Community Development.

Article 5. General Requirements and Specific Use Standards

Section 5.01. Abandonment of Construction and Structures

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

Section 5.02. Access Permit

- (A) The Zoning Administrator, ZBA or Planning Commission shall not approve any permit for development prior to issuance of an approved Access Permit signed by the Road Foreman as delegated by the Selectboard, or by the State Agency of Transportation if the access is to be off US Route 7.

Section 5.03. Accessory Structures and Uses

- (A) **General Regulations.** Except as approved under the PUD provisions of these regulations (Article 8), there shall be only one principal structure per residential lot. However:
- (1) Accessory domestic structures such as garages, tool sheds, gazebos and the like whose use is clearly related to and subordinate to the principal residence are permitted uses; and
 - (2) Accessory structures and uses for home-based businesses or dwellings may be approved subject to conditional use review under Article 7 and all other applicable provisions of these regulations.
- (B) **Common Ownership.** The permit for the accessory building shall clearly state that it is an accessory structure and shall be retained in common ownership. An accessory structure may be converted for sale or use as a principal structure only if it meets all current state regulations and applicable provisions of these regulations including all density, dimensional and other requirements of the district in which it is located. Separate permits shall be required before sale and/or conversion.
- (C) **Accessory Apartment.** One accessory apartment shall be allowed as an accessory use to an owner-occupied single-family dwelling in all districts where single-family homes are a permitted or conditional use. An accessory apartment shall satisfy all of the following requirements:
- (1) The unit shall be an efficiency or one-bedroom dwelling.
 - (2) The area of the unit shall not exceed 30% of the total habitable floor space of the principal dwelling.
 - (3) The unit shall be within the principal dwelling or an accessory structure to the principal dwelling that meets all of the applicable standards for the district in which it is located and shall in no way increase the degree of nonconformity of a nonconforming structure.
 - (4) The unit shall be subject to the same standards as the principal dwelling including adequate water supply, approved wastewater system, cooking facilities and off-street parking.

- (5) A copy of the state Potable Water and Wastewater permit and any required approvals from the state Department of Public Safety Division of Fire Safety for the unit shall accompany the application for a zoning permit.
- (D) **Home Business.** One attached or detached accessory building per residential lot may be permitted as part of a Home-Based Business 1 or 2 in conformance with Section 5.17 of these regulations and district standards.

Section 5.04. Affordable Housing [STATUTORY]

- (A) These regulations shall be interpreted to promote and protect affordable housing as follows:
 - (1) In accordance with the Act no provision of these regulations shall have the effect of excluding mobile homes, modular housing, or other forms of pre-fabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded.
 - (2) Mobile homes shall be treated as, and meet all requirements pertaining to single-family dwellings except within permitted mobile home parks in accordance with Section 5.22 of these regulations.
 - (3) These regulations shall promote accessory apartments in all districts allowing single-family dwellings.

Section 5.05. Campers, Recreational Vehicles and Other Temporary Shelters [EXPANDED]

- (A) Campers, recreational vehicles, travel trailers, motor homes, boats with living quarters, tents and other such temporary shelters shall be parked, stored or located on public or private property in accordance with the following:
 - (1) Campers and other temporary shelters may be parked in an approved campground, sales establishment, storage yard or repair facility in accordance with all applicable provisions of these regulations.
 - (2) Campers and other temporary shelters shall be parked, stored or located on areas of the property so as to minimize undue adverse impact on the abutting landowners.
 - (3) No camper or other temporary shelter shall be inhabited for more than 14 days except that:
 - (a) The Zoning Administrator may permit one camper or other temporary shelter to be placed on a construction site for use as a temporary dwelling or office for a period not to exceed 150 days.
 - (b) This provision shall not apply to a camper or other temporary shelter located in an approved campground or marina.
 - (4) Any camper or other temporary shelter not located in an approved campground or marina that is inhabited for more than 14 days in a calendar year or that is located or configured so as not to be readily moveable shall be deemed a dwelling and be subject to all provisions of these regulations applicable to single-family dwellings.
 - (5) Any wastewater or sewage generated from a camper, boat or other temporary shelter shall be disposed of in accordance with all applicable state and federal regulations.

Section 5.06. Campground [EXPANDED]

- (A) Campgrounds may be allowed in designated zoning districts subject to conditional use approval in accordance with Article 7, as well as site plan review where required in accordance with Article 6, and all of the following provisions:
- (1) A campground shall be located on a parcel not less than 10 acres in area with at least 20% of the total campground area set aside for recreation and open space.
 - (2) Each campsite shall be at least 2,550 square feet in area and shall have no dimension that is less than 50 feet.
 - (3) A campground shall provide sufficient access and parking for each campsite. All access driveways within a campground shall be at least 30-feet wide and have a compact all-weather road at least 20 feet in width.
 - (4) The campground shall have provisions for lavatory, shower and toilet facilities sufficient to serve all campsites. Water supply and wastewater disposal systems must be designed and installed in accordance with all applicable state regulations.
 - (5) A strip of land of at least 25 feet in width shall be maintained in a landscaped or natural state along all public roads, public waters and abutting property lines. This buffer area shall not be included in the calculation of open space under Paragraph (1) above. Landscaping or fencing along property boundaries may be required as appropriate for screening, security and privacy.
 - (6) No campground shall be operated for a period of more than 180 days in any calendar year.
 - (7) Recreational vehicles shall only be stored on the property provided they are registered for highway use and not occupied when the campground is not in operation.
 - (8) No person shall operate a campground without having first obtained conditional use approval from the ZBA and a permit from the ZA. A performance bond may be required of the applicant to ensure that the area is constructed and maintained in a satisfactory manner.
 - (9) Signage shall be in accordance with Section 5.36.
 - (10) Lighting shall be in accordance with Section 5.24.
 - (11) In addition to the application requirements of Article 7, application to the ZBA shall include all of the following:
 - (a) Site plan and drawings prepared by a professional engineer showing property lines;
 - (b) Contour map with 5-foot increments numbered from mean sea level;
 - (c) Proposed grading; and
 - (d) Layout of roads and walkways, campsites, parking areas, garbage collection stations, utility lines, wastewater and stormwater facilities.

Section 5.07. Corner Lot

- (A) All yards adjoining a street shall be considered front yards.
- (B) Corner lots shall be considered to have only front yards and side yards.
- (C) All yards adjoining Lake Champlain, or Little Otter or Otter Creek shall be considered front yards.

Section 5.08. Daycare Facility or Family Childcare Home

- (A) **Family Childcare Home.** A family childcare home that meets all of the following standards shall be allowed to the same extent that the zoning district allows single-family dwellings.
- (1) A resident of the dwelling in which the use is occurring shall operate the childcare home.
 - (2) The childcare home shall be operated under state licensing or registration.
 - (3) The childcare home shall serve 6 or fewer full-time children and 4 or fewer part-time children.
 - (4) One unlit exterior sign shall be permitted in accordance with Section 5.36.
 - (5) The childcare activities shall occur primarily within the dwelling. This should not be interpreted to prohibit use of other parts of the home or property such as porches, decks or yards for children's play areas as is customary in residential areas.
- (B) **Daycare Facility.** Daycare facilities that do not meet the definition of a family childcare home may be allowed in designated zoning districts subject to conditional use approval in accordance with Article 7, as well as site plan review where required in accordance with Article 6, and all of the following provisions.
- (1) The daycare facility shall be operated under state licensing or registration.
 - (2) Parking shall be provided on-site in accordance with Section 5.25.
 - (3) Signage shall be in accordance with Section 5.36.
 - (4) Lighting shall be in accordance with Section 5.24.
 - (5) Daycare facilities shall meet all performance standards in accordance with Section 5.26.

Section 5.09. Extraction of Topsoil, Subsoil, Sand and Gravel [EXPANDED]

- (A) This section shall not apply to extraction activities associated with publicly-owned and –operated gravel pits used solely for road construction and maintenance, or extraction activities that are incidental to exempted agricultural or forestry operations, the operation of cemeteries, or another allowed use that involves the removal of less than 300 cubic yards of earth resources in a calendar year.
- (B) The extraction or removal of 300 or more cubic yards of topsoil, sand, gravel or other earth resources in a calendar year may be allowed in designated zoning districts subject to conditional use approval in accordance with Article 7, as well as site plan review where required in accordance with Article 6, and all of the following provisions.
- (1) Before approval of any new extraction operation, or extension thereof, a performance bond may be secured from the applicant sufficient to ensure that upon completion of the extraction operation the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this. The bond shall be sufficient to cover the cost of the plan.
 - (2) No actual excavation activities will be permitted to occur on more than five contiguous acres of the property at any one time. Excavation of additional five-acre sites shall only be permitted after the

applicant has restored the previously worked area to a natural state in accordance with the conditions of the permit.

- (3) The removal of all material shall be conducted to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pit.
- (4) The excavation operation sites shall be graded smooth and left in a neat condition.
- (5) Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched and reseeded to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Zoning Administrator.
- (6) The owner shall control all surface drainage affected by excavation operations to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Zoning Administrator.
- (7) No excavation, blasting or stockpiling of materials shall be located within 200 feet of any street, stream or property line.
- (8) No power-activated sorting machinery or equipment shall be located within 300 feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
- (9) All excavation slopes in excess of 40% shall be adequately fenced as determined by the Zoning Administrator.
- (10) Extension of an existing non-conforming operation shall not be permitted.
- (11) Removal of topsoil for sale or for use on other premises, except as may be incidental to a construction project on the site which the soil is being removed, shall be prohibited.
- (12) The Zoning Board may attach any additional conditions it may find necessary for the safety and general welfare of the public including conditions in regard to any of the following:
 - (a) The storage of equipment and the stockpiling of materials on-site;
 - (b) Hours of operation, including for blasting, processing and trucking;
 - (c) Effect on drainage patterns, water quality and groundwater supplies;
 - (d) Effect on adjacent properties due to noise, dust or vibration; or
 - (e) Effect on traffic and road conditions, including potential physical damage to public roads.

Section 5.10. Filling of Land [EXPANDED]

- (A) In any district, a zoning permit is required by all persons, including the Town, for the depositing of 50 cubic yards or more in a calendar year of rock, concrete, stone, gravel, sand, cinders, stumps and soil or other material used for the filling of land.
- (B) The Zoning Administrator may issue a permit provided the applicant demonstrates that the activity will be in conformance with the following:
 - (1) The filling will not significantly alter existing drainage patterns, cause soil erosion or result in any hazard or expense to the community.
 - (2) Natural drainage flows are not obstructed or diverted onto adjacent properties.

- (3) No invasive plant species, such as Japanese knot weed, shall be spread with the fill.
 - (4) The filled area shall be graded smooth and left in a neat condition.
 - (5) The filled area shall be fertilized, mulched and reseeded to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Zoning Administrator.
 - (6) No stockpiling of materials shall be allowed within 200 feet of any street, stream or property line.
- (C) State laws governing the filling of land shall be adhered to.

Section 5.11. Freestanding Dishes and Antennas

- (A) The installation of freestanding dishes and antennas shall meet the minimum setback, lot coverage and height requirements for the district in which they are located, and shall be permitted only in the rear yard of a dwelling or other building served.
- (B) The provisions of Paragraph (A) above may be waived as per Section 4.03 and alternative siting may be approved by the Zoning Board of Adjustment if the criteria of Section 4.03 and following criteria are met:
 - (1) Quality reception requires alternative siting and
 - (2) Screening that does not impair reception is used to minimize the visibility of the installation from the public right-of-way and neighboring properties.

Section 5.12. Frontage and Access Requirements

- (A) No land development shall be permitted on lots which do not have either frontage on a public road (State Class 1, 2, & 3) or, with approval of the Planning Commission, access to such a road by permanent easement or right-of-way of at least 60 feet in width, which could, if developed, serve as a year-round access by automobile.
- (B) Any activity for which a zoning permit is required and which involves the construction or modification of a driveway intersecting with a public right-of-way shall obtain an Access Permit from the Road Foreman if access is onto a Town Road or, if property will access onto US Route 7 an Access Permit approved by the State Agency of Transportation. Such approved access permit shall be obtained prior to issuance of a zoning permit. The Selectboard may attach conditions to the access permit with respect to design, construction, landscaping or location of such driveway in order to ensure safety, provide access by emergency vehicles, minimize traffic difficulties and minimize erosion. The Selectboard may set specific standards.
- (C) For access subject to site plan review by the Planning Commission, the Commission may require changes or additions in relation to yards, driveway entrances and exits, landscaping, and the location and height of buildings, and enclosures to ensure safety, minimize traffic difficulties and to safeguard adjacent properties.

- (D) No lot shall be served by more than one access road or driveway unless otherwise permitted under site plan, subdivision or PUD review. Access points, including curb cuts shall be limited to those approved and not extend along the length of road frontage.
- (E) In all districts on a corner lot, within the triangular area formed by the intersection of two roads and a line joining them at points 25 feet away from the intersection, there shall be no obstruction to vision between the height of 3 feet and 10 feet above the average grade of each road.
- (F) Frontage requirements for any lot served by a private right-of-way shall be the same as the dimensional requirements for a lot served by a public right-of-way.
- (G) All driveways shall have installed tubing or culverts where needed to assist flow of surface water.

Section 5.13. Gasoline Station or Motor Vehicle Service Stations [EXPANDED]

- (A) Gasoline or motor vehicle service stations may be allowed only in the Highway Commercial District subject to conditional use approval in accordance with Article 7, as well as site plan review where required in accordance with Article 6, and all of the following provisions.
 - (1) A gasoline station or motor vehicle service station lot shall not be located within 500 feet of any school, hospital, library, municipal, community or public building, or religious institution.
 - (2) Lot size shall be at least two acres.
 - (3) Lot frontage shall be at least 200 feet.
 - (4) Lot depth shall be at least 300 feet.
 - (5) Pumps, lubrication and other service devices shall be located at least 50 feet from edge of the road right-of-way and at least 50 feet from all side and rear lot lines or outside the setbacks, whichever is greater.
 - (6) To the extent feasible, pumps and service equipment should be located to the side or rear of the station building. The pumps shall not be located so as to require vehicles to park within the road right-of-way when fueling.
 - (7) All fuel and oil shall be stored at least 50 feet from any property line or outside the setbacks, whichever is greater, and in accordance with Section 5.26. Performance Standards.
 - (8) A gasoline station, in addition to the signs allowed under Section 5.36, may have either one pricing sign not to exceed 12 square feet in area, or pump-top pricing signs each not to exceed 2 square feet in area. No signs shall exceed 18 feet in height.
 - (9) Station canopies shall be limited to the minimum area required for adequate pump and apron coverage and the minimum ceiling height necessary to meet applicable state and federal safety requirements. Canopy scale and design shall be compatible with station design and surrounding buildings. Canopy roofs shall not be flat. Corporate logos are specifically prohibited on station canopies and canopies cannot be used for advertising purposes. Canopies shall not be internally illuminated, not shall their fascia be illuminated. Shielded, indirect lighting recessed within the canopy may be allowed.

- (10) A gasoline station may be allowed up to two access driveways from the street if deemed necessary to ensure safe ingress, egress and internal circulation. The maximum width of each access driveway shall be 40 feet.
- (11) The applicant shall provide a report documenting the sight distance from all proposed access driveways prepared by a licensed engineer and evidence that the sight distance meets the state's standards for safety at intersections.
- (12) A suitable curbed landscaped area shall be maintained at least 5 feet in depth along all street frontage not used as driveway. Additional curbing, landscaping, screening or pedestrian walkways may be required as deemed necessary to manage vehicle and pedestrian circulation on- and off-site, and to minimize adverse impacts to adjoining properties.
- (13) Site layout and building design shall be compatible with the character of the neighborhood in which the gasoline or service station is located.
- (14) All automobile parts and dismantled vehicles shall be stored within a building unless screened from public view. Vehicles awaiting repair or pick-up shall be parked behind the front line of the principal building.

Section 5.14. Grading

- (A) No grading, cutting or filling shall be carried out in any district, which leaves the slope of the finished grade in excess of 35%, and steps shall be taken to prevent erosion.

Section 5.15. Group Home

- (A) A residential care or group home operated under state licensing or registration, serving not more than 8 persons who have a handicap or disability as defined in 9 VSA § 4501, shall be considered to constitute a permitted residential use of property and shall be treated the same as single-family residences in all districts, except that no such home shall be permitted if it is located within 1,000 feet of another existing or permitted group home.

Section 5.16. Height Restrictions [MODIFIED]

- (A) No structure shall exceed 35 feet or except for the following which are specifically exempted from the height requirements of these regulations:
 - (1) Agricultural structures in compliance with Accepted Agricultural Practices;
 - (2) Steeple, bell tower, fire tower, chimney, flagpole, ornamental cupola
 - (3) Antennas, satellite dishes, electric transmission pole, wind generator with blades less than 20 feet in diameter, rooftop solar collectors which are associated with a residential use and or structure and are less than 50 foot in height.

Section 5.17. Home Occupations and Home Businesses [EXPANDED]

- (A) **Home Occupation.** A home occupation that meets all of the standards below shall be allowed in all zoning districts to the same extent as single-family dwellings. A zoning permit application may

be submitted to the Zoning Administrator so that a determination can be made as to whether the proposed use is, in fact, a home occupation as defined by these regulations.

- (1) The business owner and operator shall reside in the single-family dwelling on the lot.
- (2) The business shall not employ any non-resident employees.
- (3) The home occupation shall be carried on within a minor portion of the dwelling and/or accessory building shall not occupy an area greater than 30% of the habitable floor area of the dwelling.
- (4) Exterior display of products, the exterior storage of materials, or other exterior indications of the home occupation shall be prohibited except that One unlit exterior sign shall be permitted in accordance with Section 5.36.
- (5) On-site retail sales are only permitted as ancillary to the related primary home occupation.
- (6) The business use shall not generate more than the number of average daily trips for a single-family residence according to the latest edition of the Institute of Traffic Engineers' Trip Generation Manual.
- (7) Parking shall be provided on-site in accordance with Section 5.25.
- (8) Home occupations shall conform to all performance standards in accordance with Section 5.26.
- (9) The zoning permit shall clearly state that the use is limited to a home occupation, approved in accordance with the above provisions, which is accessory to the single-family residential use. Any proposed expansion of the home occupation beyond that permitted shall require a separate zoning permit for a Home-Based Business 1 or 2, or other use as appropriate.

(B) Home-Based Business 1. Home-Based Business 1 shall be allowed in all zoning districts to the same extent as single-family dwellings and may be permitted by the Zoning Administrator in accordance with all of the following provisions.

- (1) The business owner shall reside in the primary dwelling on the lot.
- (2) The business shall not employ any non-resident employees.
- (3) The business may use space in an accessory building on the lot in addition to or instead of space within the dwelling. The accessory building shall meet the required dimensional standards and other conditions required for that district. The accessory building shall not increase the degree of nonconformity of a nonconforming lot or structures thereon.
- (4) Exterior display of products, the exterior storage of materials or equipment, or other exterior indications of the business shall be prohibited except that one unlit exterior sign not exceeding four square feet in area shall be permitted in accordance with Section 5.36.
- (5) The business use shall not generate more than twice the number of average daily trips for a single-family residence according to the latest edition of the Institute of Traffic Engineers' Trip Generation Manual.
- (6) Parking shall be provided on-site in accordance with Section 5.25.
- (7) The business shall conform to all performance standards in accordance with Section 5.26.
- (8) The zoning permit shall clearly state that the use is limited to a Home-Based Business 1, approved in accordance with the above provisions, which is accessory to the residential use. Any proposed

expansion of the business use beyond that permitted shall require a separate zoning permit for a Home-Based Business 2 or other use as appropriate.

(C) **Home-Based Business 2.** Home-Based Business 2 may be allowed in designated zoning districts and may be subject to conditional use approval by the Zoning Board of Adjustment in accordance with Article 7, as well as site plan review where required in accordance with Article 6, and all of the following provisions.

- (1) The business owner shall reside in the primary dwelling on the lot.
- (2) The business may have employees other than family members.
- (3) The business may use space in an accessory building on the lot in addition to or instead of space within the dwelling. The accessory building shall meet the required dimensional standards and other conditions required for that district. The accessory building shall not increase the degree of nonconformity of a nonconforming lot or structures thereon. The location of the accessory building shall clearly be subordinate to the principal building.
- (4) One unlit exterior sign shall be permitted in accordance with Section 5.36.
- (5) All materials, equipment and products shall be stored inside a building or screened from the road and neighbors, and shall not be placed in the setback.
- (6) The business use shall not generate more than twice the number of average daily trips for a single-family residence according to the latest edition of the Institute of Traffic Engineers' Trip Generation Manual.
- (7) Parking shall be provided on-site in accordance with Section 5.25 and shall be located to the rear or side of the principal structure on the lot.
- (8) The business shall conform to all performance standards in accordance with Section 5.26.
- (9) The zoning permit shall clearly state that the use is limited to a Home-Based Business 2, approved in accordance with the above provisions, which is accessory to the single-family residential use. Any proposed expansion of the business use beyond that permitted shall require a separate zoning permit for a non-residential use as appropriate and allowed within the zoning district.
- (10) The Zoning Board shall set noise levels, outside lighting, or any other conditions deemed necessary to ensure that the accessory use does not have an undue adverse effect upon the character of neighborhood.
- (11) It is the responsibility of the applicant to meet all state regulations, and to provide proof of such compliance in writing prior to beginning construction.

Section 5.18. Interior Lots

(A) Any lot which does not have frontage on either a public or private road shall have a minimum width equal to the minimum frontage specified for the district and minimum yard requirement for all yards equal to the side yard setback distance for lots in that district and shall meet minimum lot depth requirements for that district unless part of a PUD.

Section 5.19. Landscaping and Screening [EXPANDED]

- (A) Where any non-residential use abuts any residential use, a strip of land as least 25 feet in width shall be maintained as a landscaped area in the yards that abut the residential use.
- (B) The AMP may require parking areas, loading docks, service entrances, dumpsters, propane tanks, open storage areas, exposed machinery, and waste disposal areas to be screened from public streets and adjacent land uses. The screening may consist of densely planted landscaping, fencing and/or landforms.
- (C) The outdoor storage of solid waste or garbage shall be screened or hidden from public view and view from abutting residential lots. For non-residential uses, such storage shall be screened and located to the rear of the buildings.
- (D) Ground-level mechanical equipment and utility infrastructure to be used in the operation or maintenance of a structure shall be located to the side or rear of the structure and shall be screened from public streets and adjacent properties. The screening may consist of densely planted landscaping, fencing and/or landforms.
- (E) Rooftop mechanical equipment and appurtenances to be used in the operation or maintenance of a structure shall be arranged to minimize visibility from any point at or below the roof level of the structure. Such features, in excess of 30 inches in height, shall be either enclosed by outer building walls or parapets, grouped and screened in a suitable manner, or designed in themselves so that they are balanced and integrated with respect to the design and materials of the building.
- (F) Landscaping required by these regulations shall consist, at a minimum, of evergreen trees, shrubs and protective ground cover. One evergreen tree at least 10 feet in height shall be planted no nearer than 10 feet to any lot line for each 300 square feet of required landscaped area and shall be located to minimize potential shading of south facing surfaces of adjacent residences or solar energy systems. One shrub shall be planted for each 200 square feet of required landscaped area. Protective ground cover is required for the entire landscaped area.
- (G) Landscaping for non-residential uses within the Highway Commercial, Industrial, Civic Center and North Ferrisburgh Village Districts shall be required as follows:
 - (1) The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. The applicant shall also submit a planting schedule keyed to the site landscaping plan that lists the botanical and common names, size at planting and quantity of all project plantings. Use of native plants is encouraged.
 - (2) Landscaping shall be considered an integral component of the approved project. The applicant shall replace within 30 days any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant can demonstrate to the satisfaction of the Zoning Administrator that site conditions require an alternative species of comparable size.
 - (3) The applicant may consider the following in developing a landscaping plan:

- (a) A minimum of 30% of the building's total foundation, including a minimum of 50% along the building's front façade, shall be planted with landscaping consisting of one 1.5-inch caliper ornamental tree and 4 shrubs per 10 linear feet of foundation. Preferred locations for such landscaping are near entrances and facades facing public streets.
- (b) Landscaping consisting of three 2.5-inch caliper street trees, six 4-foot high understory trees, ten 12-inch high evergreen or 15-inch high deciduous shrubs and five 3-foot evergreen trees shall be planted every 50 feet along and within a minimum 30-foot wide green strip buffer adjacent to all public street and along and within a minimum 15-foot wide green strip buffer adjacent to all private streets and drives including parking lot connectors, circulation drives (including those adjacent to building) and loading areas.
- (c) One 2.5-inch caliper canopy tree, one 4-foot high understory tree and five 12-inch high evergreen or 15-inch high deciduous shrubs shall be planted within each parking lot island. All landscaped areas shall be a minimum 10 feet in width in their smallest dimension and tree wells shall be a minimum 36 square feet in area.
- (d) Where the building site abuts an area zoned or developed for residential uses, a 6-foot high berm shall be provided and planted with double offset row of 4-foot high evergreens spaced 15 feet on center.

Section 5.20. Lots in More than One Zoning District

- (A) Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot may be extended not more than 30 feet into the more restricted part.

Section 5.21. Lots Located On Public Waters

- (A) There shall be no building construction within 80 feet of the mean water line (95.5 feet above sea level for Lake Champlain) on lots located on public waters.

Section 5.22. Mobile Home Parks [EXPANDED]

- (A) Mobile homes are permitted in approved mobile home parks subject to the requirements of this section and state law. New mobile home parks shall be allowed in the Rural Agricultural District as a conditional use and shall be reviewed under the PUD provisions of these regulations on the same basis as any other development type.

Section 5.23. Nonconforming Lots, Structures and Uses [EXPANDED]

- (A) Pursuant to 24 VSA § 4412(7), the following provisions shall apply to all lots, structures and uses in existence on the effective date of these regulations that do not conform to the requirements set forth in these regulations and to all lots, structures and uses that in future do not conform by reason of any subsequent amendment to these regulations. Nonconformities shall be regulated and only allowed to continue indefinitely as specified below.
- (B) **An undeveloped nonconforming lot** may be developed in accordance with the standards of the district in which it is located if the lot:

- (1) Was legally subdivided;
 - (2) Was in existence on or before the effective date of these regulations;
 - (3) Is at least 1/8 acre in area; and
 - (4) Is at least 40 feet wide and deep.
- (C) **A nonconforming lot** shall be deemed merged if it comes into common ownership with one or more contiguous lots and may not be separately conveyed except as provided in Paragraph (D). All pre-existing small lots deemed merged before September 1, 2005 shall remain merged.
- (D) **A nonconforming lot** shall not be deemed merged if it comes into common ownership with one or more contiguous lots and may be separately conveyed in its pre-existing configuration provided that it can meet any of the following:
- (1) The nonconforming lot was developed with a water supply and wastewater disposal system as of the effective date of these regulations;
 - (2) The deeds of conveyance create appropriate easements for an off-site location for water supply and wastewater disposal systems to serve the nonconforming lot; or
 - (3) All parties submit a signed letter indicating that they understand that the lot is nonconforming and that it may not be able to be developed if a potable water and wastewater permit is not issued by the state.
- (E) **A lawfully developed nonconforming lot:**
- (1) May continue in its current use and configuration.
 - (2) May, after receiving a permit from the Zoning Administrator, have any structure located on it repaired, maintained, structurally enlarged, expanded or moved if such a structure meets the district standards for the district in which it is located.
 - (3) May, after receiving a permit from the Zoning Administrator, have new a structure built upon it if such a structure meets the district standards for the district in which it is located.
 - (4) May not be converted to any other use allowed in the district in which it is located or change its configuration in any way other than as specified above without a waiver issued by the ZBA in accordance with Section 4.03. The ZBA shall only allow a conversion that does not increase the degree of nonconformity of the lot as defined in Section 11.02 of these regulations.
- (F) **A nonconforming structure:**
- (1) May undergo normal repair and maintenance without a permit if such action does not increase the structure's degree of nonconformity as defined in Section 11.02 of these regulations.
 - (2) May be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of nonconformity that existed prior to the damage, and provided that the reconstruction commences within 2 years and is completed within 4 years of the date the damage occurred.
 - (3) May be structurally enlarged, expanded or moved, after receiving a permit from the Zoning Administrator, provided that the degree of nonconformity is not increased.

- (4) May, subject to conditional use approval by the ZBA under Article 7, be structurally altered or expanded in a manner that would increase the degree of nonconformity for the sole purpose of meeting mandated state or federal environmental, health, accessibility, safety or energy regulations that would allow for the continued use of the structure.

(G) A nonconforming use:

- (1) Shall not be moved from one lot to another where it is also a nonconforming use.
- (2) Shall not be re-established if the use has been changed to or replaced by a conforming use for a period greater than one year. Intent to resume a non-conforming use shall not confer the right to do so.
- (3) Shall not be re-established if the use has been discontinued for a period greater than one year. Subject to conditional use approval under Article 7 and finding that reasonable effort is being made to reinstate the use, the ZBA may allow a nonconforming use in a structure that was damaged by any cause to be discontinued for additional one-year periods. A non-conforming use may be re-instated in part of a structure damaged by any cause for a period of up to three years, if the use had continued to be carried out in an undamaged portion of the structure.
- (4) Shall not be converted to another nonconforming use without conditional use approval under Article 7. The ZBA shall only allow the use to be converted to another nonconforming use that, in its opinion, is the same or of a more conforming nature than the present non-conforming use, and which does not have an undue adverse impact on the character of the area or neighborhood.
- (5) May not increase the degree of nonconformity by any means whatsoever, except with the approval of the ZBA subject to conditional use approval under Article 7.
- (6) Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming structure if such action does not increase the degree of nonconformity.

Section 5.24. Outdoor Lighting [NEW]

- (A) **Purpose.** Ferrisburgh's rural character is enhanced by the ability to clearly view and enjoy the night sky largely free from light pollution. While some outdoor lighting may be necessary for safety and security, inappropriate, poorly designed, or improperly installed outdoor lighting can create unsafe conditions and nuisances for adjoining property owners, cause sky glow that obstructs views of the night sky, and result in unnecessary energy consumption.
- (B) **Standards.** To allow for appropriate outdoor lighting, the following standards shall apply to all outdoor lighting installations with the exception of temporary holiday light displays, public street lighting and flag pole lights, which are exempt from these requirements.
 - (1) All outdoor lighting shall be kept to the minimum required for safety, security and intended use.
 - (2) Outdoor lighting shall not have undue adverse impacts on the character of the area in which it is located.
 - (3) Permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, public roads or public waters.
 - (4) Outdoor lighting fixtures shall be cast downward and be designed to minimize glare. Such fixtures may include recessed, shielded or cutoff fixtures, or low luminance lamps.

- (5) Outdoor lighting fixtures should include timers, dimmers or sensors to reduce energy consumption and eliminate unnecessary lighting.
 - (6) Outdoor lighting fixtures associated with nonresidential uses, except for approved security lighting, shall be illuminated only during business hours.
- (C) **Waiver.** The AMP may waive or modify the requirements of this section, in accordance with Section 4.03, if it finds that doing so will not result in a violation of the stated purpose of these provisions; or it finds that a waiver or modification is needed for public safety, or to meet an overriding public purpose such lighting a public building or monument.

Section 5.25. Parking [MODIFIED]

- (A) **Parking Standards.** For every structure or use erected, established, altered, extended or changed, associated off-street parking spaces shall be provided as set forth below:
- (1) All required parking spaces shall be located on the same lot, or upon approval of the Planning Commission after site plan review, off-site on a lot(s) under the same ownership or under permanent easement.
 - (2) All required parking spaces shall have a minimum width of 9 feet and a minimum length of 20 feet, unobstructed access and maneuvering room, a gravel or paved surface sufficient to permit year-round use, and shall not exceed a maximum slope of 8%.
 - (3) With the exception of parking associated with single- and two-family dwellings, parking areas shall not be located between the street and the building front line of the principal building. Parking of personal, passenger vehicles shall be allowed on residential driveways including within required setback areas.
 - (4) Parking areas for non-residential uses shall be set back at least 50 feet from the nearest property line of any adjacent non-residential uses.
 - (5) All non-residential parking areas shall be located to the side or rear of the buildings, and screened or otherwise visually hidden from adjoining residential areas.
 - (6) All commercial and public buildings shall provide adequate, clearly marked handicapped parking spaces in accordance with state and federal requirements.
 - (7) All off-street parking areas in excess of 10 parking spaces shall provide landscaped areas that at minimum are equal to a least 10% of the total parking area. Landscaped areas shall be integrated into the parking lot design. Landscaped areas shall conform to the provisions of Section 5.19 of these regulations.
- (B) **Spaces Required.** The applicant may provide parking spaces as follows:
- | | |
|---|---|
| (1) Single- and two-family dwelling units | 2 spaces per unit |
| (2) Multi-family dwelling units | 4 spaces per every 3 units |
| (3) Lodging | 1 space per guest room |
| (4) Residential healthcare facility | 1 space per every 2 beds |
| (5) Community center | 1 space per 4 seats or per 200 sq ft of floor space |
| (6) Professional office | 1 space plus 1 space per 200 sq ft of floor space |

otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

(C) Violations

- (1) Where the Zoning Administrator believes that a violation of the above standards may be taking place, a written warning or notice of violation may be issued with a request that the problem be immediately corrected.
- (2) If the violation continues, the Zoning Board of Adjustment shall review the impact or possible violations to these performance standards, with professional/technical assistance if necessary, to ascertain the nature of the impact and possible mitigation measures if any.
- (3) Based on this review the ZBA will propose appropriate action, including, but not limited to mediation, or a recommendation to the Selectboard to issue an order to discontinue the violation or to propose acceptable mitigation efforts.

Section 5.27. Permitted and Conditionally Approved Uses

- (A) Except as otherwise specified in these regulations, there shall be only one primary use or structure per lot or parcel.

Section 5.28. Projection into Yards

- (A) Every part of a required yard shall be open from grade level to the sky unobstructed except for vegetation and for ordinary projections of cornices, sills, pilasters, chimneys and eaves, provided that no such projections may extend more than 2 feet into any required yard.
- (B) Certain architectural features needed for the operation of active or passive solar energy systems including but not limited to overhangs, detached solar collectors, reflectors, piping may be permitted by the ZBA to project into the required yard if conformance with yard requirements will cause undue expense or unusual difficulties.

Section 5.29. Public Utilities

- (A) Public utilities and utility structures, where allowed, shall comply with the following:
- (1) The facility shall be surrounded by a fence which is set back from the property lines in conformance with the district regulations for front, side and rear yards.
 - (2) A landscaped area at least 25 feet wide shall be maintained in front, side and rear yards. Such landscaping shall be designed to reasonable screen the view of the facility from neighboring properties.
 - (3) Where the public utility abuts a road that is considered scenic, the Planning Commission may impose additional landscaping requirements.

Section 5.30. Reduction of Lot Area

- (A) No lot shall be so reduced that the area, yards, frontage, coverage or other requirements of these regulations do not conform to the dimensional standards prescribed for each district. The provisions of the section do not apply when part of the lot is taken for a public purpose.

Section 5.31. Residential or Primary Buildings on Lots or Parcels

- (A) There shall be no more than one residential or primary building on a lot or parcel or other legal unit of land except for a PUD as authorized under 24 VSA § 4407(3), and pursuant to the provisions of Article 8 of these regulations.

Section 5.32. Required Area of Yards

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

Section 5.33. Roads [EXPANDED]

- (A) **Road Design.** All roads serving proposed subdivisions shall be designed in accordance with the Ferrisburgh Road Ordinance adopted and administered by the Selectboard, and shall generally conform to the dimensional and geometric design standards for local roads and streets contained within the *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets*, dated October, 1997, or as most recently amended. Minimum design standards include the following:
- (1) Rights-of-way for all roads shall be a minimum of 60 feet in width.
 - (2) To ensure adequate safety and service, the width of travel lanes and shoulders shall be based on average daily traffic (ADT) and design (anticipated posted) speeds.
 - (3) Lower design and posted speeds may be considered to avoid and/or minimize impacts to historic, architectural, natural or other resources, or visual character; to avoid excess costs of construction; or to better comply with the Town Plan.
 - (4) Wider travel lanes and/or shoulders may be required as appropriate to road function (i.e., for on street parking, collector and arterial roads), or to safely accommodate shared use by bicycles.
 - (5) Roads shall logically relate to topography to minimize site disturbance, including the amount of cut and fill required, and to produce usable lots, reasonable grades and safe intersections in relation to the proposed use of the land to be served by such roads. Road grades should be consistent with local terrain. Maximum road grade shall not, for any 50 feet section, exceed an average grade of 12%.
 - (6) Roads shall, to the extent feasible be designed and laid out to:
 - (a) Avoid adverse impacts to natural, historic and cultural resources, and visual character;
 - (b) Be consistent with existing road patterns in village and other settlement areas;
 - (c) Maximize connectivity within the subdivision and to adjoining parcels and road networks;
 - (d) Follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines,
- (B) **Road Construction Standards.** Road construction, including specifications relating to the crown, grade, sub-base and surfacing, shall conform to the Vermont Agency of Transportation's Standard A-76, as most recently amended.
- (C) **Intersections.** In addition to access requirements under Paragraph F, a new or relocated road shall be located so that:

- (1) Minimum corner and sight stopping distances are provided in relation to design speed and road type, in accordance with the standards set forth in the Vermont Agency of Transportation's *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets*, dated October 1997, or as most recently amended.
 - (2) It is directly opposite an existing road or driveway to form a four-way intersection wherever feasible.
 - (3) Intersections creating centerline offsets of less than 125 feet shall not be permitted, except for driveways serving single- and two-family dwellings, which shall have a centerline offset of at least 75 feet.
 - (4) It intersects the existing road at an angle that is as close to 90 degrees as possible.
 - (5) The intersection grade does not exceed 3% for a distance of 35 feet from the edge of the travel lane.
 - (6) No structure or planting is situated to impair corner visibility.
- (D) **Drainage and Stormwater.** A stormwater drainage system shall be provided that is designed to control and accommodate stormwater collected on all proposed roads and/or parking areas in accordance with Section 5.38 of these regulations. Generally, roadbeds, shoulders, ditches and culverts shall be designed and maintained in conformance with the *Vermont Better Backroads Manual*, as most recently amended.
- (E) **Coordination with Adjoining Properties.** New roads shall provide for the continuation of roads onto adjoining developed or developable property in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required of needed utilities and public services. The AMP may require the construction of stubs to allow for development of interconnected roads over time. In addition:
- (1) Where extensions of new roads could provide future access to adjoining parcels, a right-of-way shall be provided.
 - (2) The creation of reserved strips shall not be permitted adjacent to a proposed road in such a manner as to deny access from adjacent property to such road.
- (F) **Access Management.** To maintain adequate service levels and limit congestion, the AMP may require use of access management techniques.
- (1) Shared driveways and/or internal development roads providing access to multiple lots are encouraged and may be required to limit the number of access points onto public highways.
 - (2) If a subdivision has frontage on primary and secondary roads, access shall be from the secondary road unless the AMP determines that topographic or traffic safety conditions make such an access impracticable.
- (G) **Traffic and Road Capacity.** Traffic to be generated by proposed development shall not result in unreasonable traffic congestion or exceed the capacity of roads and intersections near the project. The AMP may request the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure road safety and efficiency, the cost of which is to be borne by the applicant. The implementation of mitigation measures, including required road improvements necessitated by the project, shall be the responsibility of the applicant as follows:

- (1) Where an existing access road is inadequate or unsafe, the AMP may require the applicant to upgrade the access road to the extent necessary to serve additional traffic resulting from the project and to conform to these standards.
 - (2) In situations where a development may require the realignment, widening or an increase in the capacity of an existing road, or where the Town Plan indicates that such improvements may be required in the future, the applicant may be required to reserve land for such improvements.
 - (3) Where a project requires expenditures by the Town to improve existing road(s) to conform to these standards, the Planning Commission may disapprove such subdivision until the Selectboard certifies that funds for the improvements have been ensured. The applicant may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.
 - (4) No development, except for seasonal, agricultural or forestry uses, shall have access from a Class 4 Town Road. Class 4 Town Roads shall be upgraded to Class 3 standards at the expense of the property owner seeking such an access before any new development, except for seasonal, agricultural or forestry uses, may be approved by the Zoning Administrator or AMP.
- (H) **Road Names and Signs.** Roads shall be named in accordance with the present practice, and shall have specific historic, cultural or geographical relevance. Said names shall be identified on signs designed and located in accordance with the town's policy, and shall be clearly depicted on the final plat. The applicant shall install road name signs.
- (I) **Driveways.** Driveways serving three or fewer lots shall meet the standards set forth in Paragraph C above and in addition:
- (1) Driveways should be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines; to avoid the fragmentation of open fields or meadows and to avoid adverse impacts to natural, cultural features, and visual character.
 - (2) The use of common or shared driveways is encouraged and may be required in order to minimize the number of access points in accordance with Paragraph F above.
- (J) **Parking and Transit Stops.** Parking areas shall be included within designated building envelope areas, in accordance with the requirements of Section 5.25. For major subdivisions located on existing or proposed public transit routes, sheltered transit stops, which may include centrally located park and ride areas and bike racks to serve the development, will be incorporated in subdivision design. Major residential subdivisions shall also incorporate one or more sheltered school bus stops as appropriate.
- (K) **Sidewalks and Pedestrian Access.** The AMP may require pedestrian rights-of-way to facilitate pedestrian circulation within the project site and to ensure access to adjoining properties or uses or public facilities.
- (1) The AMP may require, in order to facilitate pedestrian access from a subdivision to schools, parks, playgrounds or other nearby roads, perpetual unobstructed easements at least 20 feet in width. Easements shall be indicated on the plat.

- (2) Unless specifically waived by the PC, sidewalks shall be required along internal streets of major subdivisions, major arteries within or bordering the subdivision, and to connect to existing sidewalks on adjoining properties.
- (L) **Legal Requirements.** Every plat shall show all proposed road and pedestrian rights-of-way, as required under these regulations, regardless of whether the proposed right-of-way is intended to be accepted by the town. In the event that the right-of-way is not intended for acceptance by the town, the mechanism by which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented.

Section 5.34. Roadside Agricultural Stands

- (A) Roadside stands for the sale of agricultural products raised on the property, including value added products such as maple candy, jams, pickles, may be erected as by-right uses provided that:
 - (1) No stand be closer to any lot line than 20 feet
 - (2) Off-street parking shall be provided for at least 2 cars.
 - (3) Access or egress from any stand shall not create a traffic hazard.

Section 5.35. Roadside Trees

- (A) All live trees within the town right-of-way shall be protected, and only removed with prior approval of the Tree Warden and, if required, after public hearing.

Section 5.36. Signs [EXPANDED]

- (A) **Applicability.** A zoning permit shall be required prior to the erection, construction or replacement of any sign, except for signs that are specifically exempted as per Paragraph (B) or specifically prohibited as per Paragraph (C) of this section.
- (B) **Exemptions.** No zoning permit shall be required for the following:
 - (1) Signs erected by state or town officials.
 - (2) Flags, other than the United States or Vermont flag, and banners intended solely for ornamental or non-advertising purposes.
 - (3) The U.S or Vermont flag flown in accordance with applicable federal or state flag regulations and intended for non-advertising purposes.
 - (4) Temporary auction lawn or garage sale signs, which shall be removed following the event
 - (5) Temporary real estate sign not to exceed 6 square feet, which shall be removed immediately following sale.
 - (6) Temporary election signs to be posted and removed in accordance with state law.
 - (7) Signs or bulletin boards incidental to places of worship, schools, libraries or public facilities, not to exceed one per establishment and not to exceed 16 square feet in area and 6 feet in height above the ground.
 - (8) Temporary banners advertising community events, which shall be removed immediately following the event.

- (9) Signs, not to exceed 2 square feet in area, relating to no trespassing or hunting, identifying the residents of a dwelling, providing directions or information, or other similar non-advertising purpose.
- (C) **Prohibited Signs.** Except as specifically exempted in Paragraph (B), the following shall be prohibited:
- (1) Off-premises signs.
 - (2) Signs that impair highway safety.
 - (3) Signs that are flashing or animated.
 - (4) Signs or banners attached to flagpoles, utility poles or town signposts.
 - (5) Signs on roofs or walls that extend above the ridgeline.
 - (6) Sandwich board signs that are in place for more than 6 weeks.
 - (7) Signs advertising businesses or uses that are no longer in existence.
 - (8) Signs located on unregistered motor vehicles that are used primarily as a support or foundation.
- (D) **General Standards.** All signs, other than those specified in Paragraph (B) or (C) above shall require a zoning permit issued by the Zoning Administrator in accordance with the following requirements pertaining to all signs:
- (1) No sign shall be a detriment to public health, safety or welfare.
 - (2) All signs shall be of a character, size and location that will be in harmony with the orderly development of the district and in the public interest.
 - (3) All signs shall be of a character, size and location that maintains a presence secondary to the principal structure on the property.
 - (4) No sign shall be located within the public right-of-way.
 - (5) No sign shall be placed in such a manner that it interferes with the architectural integrity of a historic site, structure or neighborhood.
 - (6) No outdoor advertising sign shall be permitted in any district except for the purpose of identifying an existing, on-premises, recreational, commercial, business or public use in those districts where such uses are permitted.
 - (7) A sign identifying the name of a business shall not have more than 20% of its sign area devoted to advertising products sold on the premises.
 - (8) There shall be only one sign per principal business or service, unless otherwise approved by the AMP for mixed uses.
- (E) **Traffic, Hazard, Safety and Obstruction.** Every sign shall be designed and located in such a manner as to:
- (1) Not impair public safety, traffic flow or roadway visibility.
 - (2) Not restrict clear vision between a sidewalk and street.
 - (3) Not be confused with any traffic sign or signal.
 - (4) Not prevent free access to any door, window or fire escape.
 - (5) Withstand a wind pressure load of at least 30 pounds per square foot.

- (F) **Setback Requirement.** Signs may be located in required yard setback areas except that no sign shall be located within the right-of-way of a public road. The road setback requirements of all proposed sign locations shall be judged by the Zoning Administrator or AMP to be sufficient to comply with the provisions of Paragraph (E) above.
- (G) **Lighting.**
- (1) A constant, shielded light source may be used for lighting, if the lighting is directed on the sign surface, preferably from above, and does not have an unduly adverse effect on neighboring properties, rights-of-way or vehicular traffic.
 - (2) The light source shall not be visible from adjacent properties or roads.
 - (3) No sign shall be illuminated during hours when the premises is not occupied or open for business, or after 11:00 p.m.
 - (4) Flashing, oscillating or revolving signs are prohibited. Signs shall not be constructed to include fluorescent colors or reflective materials, and shall not include blinking lights or moving parts.
 - (5) No sign shall contain or support string lighting, pennants, balloons or similar attention gathering devices or any device capable of emitting noise.
- (H) **Size.** The following signs are permitted when located on the immediate property:
- (1) Within the Highway Commercial and Industrial Districts, a business may have up to a total of 50 square feet of signage as long as the Zoning Administrator judges the sign(s) to be in compliance with all applicable provisions of this section.
 - (2) Within all other districts, one unlit professional, home occupation or home business sign, which shall not exceed 4 square feet.
 - (3) Within all other districts, one sign identifying any non-residential use, which shall not exceed a 20 square feet.
- (I) **Computation of Permissible Sign Area.** When computing the total permissible sign area for any use:
- (1) Existing signs shall be included.
 - (2) Signs consisting of freestanding letters, numerals or other devices shall include any intervening spaces between them.
 - (3) Only the larger faced area of a double-faced sign shall be used.
 - (4) In the case of three-dimensional signs, the calculated area shall be the total surface area of the three-dimensional sign visible as viewed from the public way.
- (J) **Projecting Signs.** Projecting signs:
- (1) Shall not extend beyond the lesser of the street line or more than 4 feet from the building wall;
 - (2) Shall not exceed 18 feet in height above finished grade; and
 - (3) Shall be a minimum of 10 feet above the surface of a public walkway area.
- (K) **Ground or Free-Standing Signs.** Ground or free-standing signs shall not exceed 18 feet in height above the finished grade.

- (L) **Wall Signs.** Wall signs:
 - (1) Shall not be placed so as to block any door or window and shall be placed in a manner that complements the architecture of the building.
 - (2) Shall not project more than 18 inches from the wall of any building.
- (M) **Window Signs.** Not more than 25% of the total windowpane area of a storefront may be obscured by signs.
- (N) **Roof Signs.** Roof signs shall not exceed the highest point of the ridgeline.
- (O) **Temporary Signs.**
 - (1) One temporary real estate or construction sign, not to exceed 9 square feet in area or 10 feet in height may be permitted if such sign is promptly removed immediately following the sale or end of construction. This temporary sign requires a permit.
 - (2) Sandwich board signs advertising a business shall be considered temporary signs requiring a town permit and shall be in place for no more than 6 weeks.
- (P) **Signs along Route 7.** Landowners who wish to place signs on premises abutting US Route 7 shall contact the appropriate state agency, including the Agency of Transportation to determine any additional requirements or standards.
- (Q) **Application Requirements.** All applicants shall submit a drawing of the proposed sign showing all dimensions, sign design, color, lighting, mounting method and location on property, and a description including dimensions, of all existing signage on the property.
- (R) **Violations.** All permitted signs shall be maintained in a safe and secure condition. If the Zoning Administrator is of the opinion that a sign is not secure, safe, or in a good state of repair, a written warning or notice of violation may be issued with a request that the defect in the sign be corrected within 7 days.

Section 5.37. Solar and Wind Energy Systems

- (A) A solar energy system, whether part of a building or incidental to a building, shall be considered an accessory use in all districts.
- (B) A wind energy conversion system is a conditional use with the ZBA considering the following criteria in addition to the general standards for conditional use set forth in Article 10:
 - (1) Climbing access to the tower shall be limited.
 - (2) For rotors 20 foot in diameter or less, a setback from all lot lines shall be 275 feet minus 11 feet for each foot of rotor diameter less than 20 feet.
 - (3) For rotors larger than 20 feet in diameter, a setback from all lot lines shall be 275 feet plus 6 additional feet for every one foot of rotor diameter greater than 20 feet.
 - (4) The distance from the base of the tower to the property line shall be a minimum of 10 feet longer than the height of the wind power tower and rotor.

- (5) Wind energy systems shall be evaluated based on their neighborhood context and visual impact across town when viewed from a distance, so that there shall be no adverse impact on the neighborhood or wider area of town

Section 5.38. Stormwater Erosion Controls [EXPANDED]

- (A) The AMP may require such temporary and permanent stormwater management and erosion control measures as may be necessary to control surface runoff, sedimentation and water pollution on-site and downstream from a development. Factors to be considered in determining the types of controls necessary shall include pre-development site and runoff conditions, vegetation and ground cover, slope and drainage patterns, soil types (i.e., hydric soils), the percentage of land covered in impermeable surfaces, types of pollutants generated, distances to streams and other surface waters, and impact on adjoining properties.
- (B) Unless otherwise required by a state permit, the applicant, in addressing stormwater control may consider the following:
 - (1) Minimize lot frontage and setback distances, building envelope and footprint areas, in accordance with district standards and other applicable requirements;
 - (2) Minimize the length, width and paved area of roads, driveways and parking areas, in accordance with applicable road and parking standards;
 - (3) Minimize the impervious area connected directly to stormwater conveyance systems (e.g., by draining such areas over stable, vegetated pervious areas);
 - (4) Incorporate landscaped areas to absorb stormwater runoff from adjoining impervious surfaces (e.g., yard areas, filter strips, parking and cul-de-sac islands);
 - (5) Incorporate shared driveways and parking areas;
 - (6) Avoid or minimize the use of curbing and gutters;
 - (7) Maximize the use of pervious materials (e.g., for paths, spillover parking, residential driveways);
 - (8) Maintain natural vegetative cover and designated wetland, riparian and shore land buffers;
 - (9) Use vegetated, open channels within road rights-of-way to convey and treat stormwater, where density, topography, soils, and slopes permit; and
 - (10) Incorporate naturally occurring ponding and drainage areas.
- (C) Best management practices (BMPs) as defined by the Vermont Agency of Natural Resources, the U.S. Natural Resource Conservation Service or other accepted regulatory authority may be used to:
 - (1) Minimize stormwater runoff;
 - (2) Maximize on-site infiltration;
 - (3) Encourage natural filtration functions;
 - (4) Incorporate and/or simulate natural drainage systems; and
 - (5) Minimize the discharge of pollutants to ground and surface waters.
- (D) Best management practices may consist of one or more structural and/or nonstructural techniques, including but not limited to vegetated buffers and filter strips, grassed or lined swales, retention

basins, recharge trenches, constructed wetlands, and bio-retention and filtration facilities, but should be appropriate for site conditions and the intended pattern and density of development.

- (E) Control of stormwater runoff flows from all impervious surfaces may be accomplished by limiting the post-development peak discharge rate from the subdivision so that it does not exceed the pre-development peak discharge rate from the site for a 2-year, 24-hour event. Additional control of treated storm water (e.g., for 10- or 25- or 100-year, 24-hour storm events) may be required if site specific considerations warrant the attenuation of larger storm events.
- (F) Stormwater facilities, including detention ponds, culverts and ditches, may be designed to accommodate potential run-off from the entire upstream drainage area at full development, as well as runoff resulting from the proposed subdivision, and should at minimum accommodate a 25-year, 24-hour storm event.
- (G) The designation of on-site snow storage areas may be required. These areas shall not be located within wetland or surface water buffer areas, and shall be contained in such a manner that runoff is managed through a detention or infiltration facility or other best management practice that removes pollutants. An off-site storage area may be approved if an appropriate site is available and secured for long-term use.
- (H) The AMP may request determination of the effect of the project on existing downstream drainage capacity and facilities outside of the project site. Where the AMP anticipates that increased runoff incident to the development may overload the capacity of the downstream system or facility, it may require the applicant to delay construction until adequate capacity exists, or to contribute to capacity improvements to prevent such an overload. Any required construction may be on- or off-site.
- (I) If a project will result in changes in flow type, flow channel, increased stormwater discharge or flooding in areas not owned or controlled by the applicant, the applicant must secure easements for all areas of flow or flooding on affected properties. Easements must extend up to, but need not include, the channel of any river or stream accepting flow from the subdivision. Suitable land use restrictions will be included in easements to prevent any activity that may affect drainage across the area.
- (J) All areas exposed during construction shall be protected in accordance with standards of the Vermont Department of Environmental Conservation, the U.S. Natural Resource Conservation Service or other appropriate regulatory body. Permanent vegetation and erosion control measures shall be established according to a schedule as required by the AMP. The AMP also may require the phasing of construction to reduce the amount of land disturbed at anyone time, and may stipulate deadlines for the installation of temporary and permanent erosion control or stabilization measures.
- (K) The AMP may require the preparation and implementation of stormwater management and/or sedimentation and erosion control plans and associated analyses to ensure that site improvements, including excavation, road and driveway construction and site clearing and grading, shall not

unduly impact neighboring properties or surface waters. Such plans, if required, shall be prepared by a licensed Vermont engineer, and include provisions for the inspection and long-term maintenance of stormwater management and erosion control facilities.

Section 5.39. Telecommunications Antennas and Facilities [EXPANDED]

(A) **Purpose.** The purpose of this section is to:

- (1) Preserve the character and appearance of the Town of Ferrisburgh, while allowing adequate telecommunications services to be developed to serve the needs of residents and businesses.
- (2) Protect the rural, historic, environmental, natural and built resources of the town.
- (3) Provide standards and requirements for the regulation, siting, design, appearance, construction, monitoring, modification and removal of telecommunications facilities and towers.
- (4) Preserve property values and protect rural character within the town.
- (5) Locate towers and antennas in a manner that promotes the general health, safety, welfare and quality of life for the residents of Ferrisburgh.
- (6) Require the use of existing structures where possible and appropriate.
- (7) Require the sharing of existing communications facilities, towers and sites where possible and appropriate.

(B) **Exemptions.** The following are specifically exempted from the provisions of these regulations:

- (1) A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level.
- (2) All citizen band radio antennas, or antenna operated by a federally licensed amateur radio operator which does not exceed a height of 40 feet above grade level whether free standing or mounted, and which meets all setback requirements for the district in which they are located.

(C) **Permit Required.** Except as specifically exempted in Paragraph (B), a zoning permit, and/or conditional use review as applicable, is required for:

- (1) New tower construction;
- (2) Telecommunications facilities to be mounted on a new tower or structure;
- (3) Telecommunications facilities to be installed on an existing structure including preexisting towers, silos or steeples; or
- (4) Modifications to existing towers or facilities.

(D) **Permitted and Prohibited Locations.** Small-scale wireless telecommunications antennas, repeaters or microcells to be installed on existing structures, which do not extend more than 10 feet in height from the structure and are more than 50 feet away from existing residences, may be allowed as conditional uses upon compliance with the provisions of these regulations in all zoning districts. Other wireless telecommunications towers or facilities may be allowed as conditional uses upon compliance with the provisions of these regulations in the Rural Agricultural Residential District.

- (E) The following provisions shall apply to applications for new or expanded telecommunications facilities:
- (1) A proposal for a new tower shall not be permitted unless it is determined by the Zoning Board that the equipment planned for the proposed tower cannot be accommodated on an approved tower, or existing building or structure such as a silo or steeple.
 - (2) All towers, including antennas, shall not exceed the height of the surrounding vegetation or 100 feet as measured from the lowest grade at ground level to the top of the highest structure or component, whichever is less.
 - (3) No new telecommunications facility shall be located within 200 feet of an existing residence.
 - (4) No new roads or trails longer than 500 feet shall be built to access a telecommunications facility
 - (5) Telecommunications facilities shall be located to minimize their visibility both in the immediate neighborhood and from a distance. No facility shall be built on an exposed ridgeline or hilltop. New or modified towers shall be designed to blend into the surrounding vegetation to the greatest extent possible through use of existing vegetation, landscaping, screening, use of compatible materials and colors and other camouflaging techniques. Commercial wireless towers shall be of monopole design unless it is determined that an alternative design would better blend into the surrounding vegetation.
 - (6) Towers shall not be illuminated by artificial means, and shall not display flashing or strobe lights, unless specifically required to do so by state or federal authorities.
 - (7) Setback, landscaping and screening requirements may be increased as appropriate to site conditions and to protect neighboring properties and uses.
 - (8) No new overhead power lines shall be built to service telecommunication facilities. Any connections to existing power lines shall be ground laid or buried underground.
 - (9) All abandoned or unused towers and associated equipment shall be removed within 12 months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease that requires the applicant remove the tower and associated facilities shall be submitted at the time of the application. A bond or other acceptable form of surety may be required to ensure tower removal and site reclamation.
 - (10) The owner of a telecommunications facility shall submit an annual report to the Zoning Administrator to include an inventory of all equipment located on the facility, a current list of lessees and a certification that all equipment is actively used. Failure to file the report within 30 days of the end of each calendar year shall be deemed a violation subject to all the provisions of Section 3.20 and Section 3.21 of these regulations.
- (F) Application for a new telecommunications facility shall be subject to site plan review by the Planning Commission, and shall include the following:
- (1) A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross sections, elevations, potential mounting locations and fall zones.
 - (2) Information regarding the availability of existing towers and buildings within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no other suitable or alternative sites are available.

- (3) A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (4) Proof that the proposed tower shall comply with all requirements of Federal Communications Commission and Federal Aviation Administration.
- (5) Any additional information needed to determine compliance with the provisions of these regulations.

Section 5.40. Temporary Uses and Structures

- (A) Temporary permits may be issued by the Zoning Administrator for a period not exceeding 12 months, after approval by the ZBA for non-conforming uses incidental to construction projects, provided that such permits are conditioned upon agreement by the owner to remove the structure upon expiration of the permit. Such permits may be renewed only once, and only for a period not to exceed 12 months.

Section 5.41. Water Supply and Wastewater Disposal

- (A) The Town of Ferrisburgh shall issue permits and approvals for all development requiring a state potable water and wastewater permit contingent upon the applicant obtaining the state permit.
- (B) Certificates of occupancy shall only be issued for projects requiring a state potable water and wastewater permit after such a permit has been filed in the town land records.
- (C) The Zoning Administrator or the AMP may require applicants submit a determination letter from the Vermont Agency of Natural Resources when questions arise as to whether a state potable water and wastewater permit is required for a proposed project.

Article 6. Site Plan Review [NEW]

Section 6.01. General

- (A) The Zoning Administrator shall not issue a permit for any use or structure that requires site plan review, or for expansion or enlargement or change in use of a use that requires site plan review until the Planning Commission grants site plan approval. Uses requiring site plan review are specified in the provisions governing each zoning district.
- (B) The Planning Commission shall make findings on general and specific standards, hold hearings and attach conditions, if any, as provided for in 24 VSA § 4416 of the Act and all applicable sections of these regulations.

Section 6.02. Application for Site Plan Review

- (A) The applicant shall submit to the Zoning Administrator at least 25 days prior to the regular meeting of the Planning Commission three copies of a letter summarizing the proposed project which addresses all elements of this article, and all other information necessary to illustrate compliance with these regulations and for the PC to make its decision, including property identification numbers of property taken from the latest tax records; name and address of the owner of record and those of adjoining lands; name and address of person or firm preparing the map; scale of map; north point and date.
- (B) The PC may also require the following:
 - (1) An accurate map or survey of the property showing existing features, including contours relative to sea level, Wetlands, Flood Hazard Areas, structures, decks, large trees, utility easements, location of well-heads, wastewater treatment, rights of way, land use and deed restrictions.
 - (2) A scaled site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscape plans including site grading, curb cuts, landscape design and screening.
 - (3) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 - (4) A description of energy utilization and conservation measures for each heated structure
 - (5) Where the proposed use or structure or activity may result in disturbance of the site, a Soil Erosion and Sediment Control Plan.
 - (6) Copies of all other required permits including state and federal permits, wastewater, potable water and access permits.
 - (7) Other information pertinent to the issue before the PC.

Section 6.03. Public Notice and Review Procedures

- (A) The PC shall give notice and undertake review as specified in Section 3.16, Section 3.17 and Section 3.18 of these regulations.

Section 6.04. Review Criteria and Standards

- (A) The Planning Commission shall review site plans for the following and may impose conditions as it deems necessary to achieve the purposes of these regulations and the Ferrisburgh Town Plan:
- (1) Traffic Circulation and Access. The number and size of curb cuts shall meet the standards set forth in Section 5.33. In appropriate instances, the PC may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road.
 - (2) Pedestrian Access. The PC may require pedestrian circulation within the site and along public roads. Such access may take the form of sidewalks or paths. In addition, adequate access from any parking areas and sidewalks to the building(s) that are open to the public shall be provided for people with disabilities.
 - (3) Parking and Service Areas. Parking and service areas shall be provided in accordance with the requirements of Section 5.25. Nonresidential parking and service areas shall be located to the side or rear of buildings, unless otherwise approved by the PC due to existing site limitations.
 - (4) Building Design. The PC may impose conditions with regard to siting, density, setbacks, height, massing, materials and orientation to ensure that the proposed design and location of structures shall be compatible with:
 - (a) Their proposed setting and context;
 - (b) Existing site conditions and features; and
 - (c) Adjoining structures and uses.
 - (5) Historic Structures. Applicants are encouraged to preserve existing historic structures and to renovate and reuse them, while retaining their historic character and any significant architectural features. Renovations and re-use may include adaptive renovations, but the burden shall be on the applicant to demonstrate why any significant features (including windows, roofing, cornices, doors, siding) are being concealed or eliminated.
 - (6) Energy Conservation. Applicants shall demonstrate that reasonable energy conservation measures will be taken and that the project meets all applicable state requirements for energy efficiency.
 - (7) Outdoor Storage and Display. The PC may limit or prohibit outdoor storage or display of goods, supplies, vehicles, equipment, machinery or other materials. Secured, covered areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving outdoor display or storage, the PC may place conditions on the area and location of such storage or display, and may require appropriate screening.
 - (8) Landscaping and Screening. Proposed landscaping and screening shall be designed to:
 - (a) Preserve and incorporate existing vegetation and enhance unique landscape features;
 - (b) Be suited to existing site conditions and be integrated with adjacent properties;
 - (c) Screen parking areas from view;
 - (d) Establish a consistent streetscape and the planting of street trees, especially in North Ferrisburgh village, the Civic Center and the Route 7 corridor within Highway Commercial districts.

- (9) Hours of Operation. The PC may limit the hours of operation. Hours of operation are generally expected to not begin earlier than 7:00 a.m. and end by 11:00 p.m. The burden will be on the applicant to demonstrate why longer hours should be allowed.
- (10) Stormwater Management and Erosion Control. Applicant shall demonstrate that they comply with all state requirements and the provisions of these regulations applicable to stormwater management and erosion control. Applicants shall adequately address drainage on the site so as not to create ponding on or off the site. The flow of storm or surface water shall not be rerouted so as to cause ponding or flooding problems for neighboring properties.
- (11) Other Provisions of These Regulations. The project shall comply with all other applicable provisions of these regulations including Section 5.24. Outdoor Lighting, Section 5.26. Performance Standards and Section 5.36. Signs.

Section 6.05. Rural Standards

- (A) In addition to the standards described above, the following standards shall apply to all applications for site plan review within the Agricultural West Ferrisburgh, Conservation and Recreation, Route 7 Rural Agricultural, the Rural Agricultural Residential and Rural Residential districts. Projects in the specified districts shall be designed to:
 - (1) Blend new development into the agricultural or forest landscape; and
 - (2) Maintain the town's rural character, both visually and as a functional working landscape.
- (B) **Adaptive Reuse of Agricultural Structures.** The PC may approve permitted or conditional uses within former agricultural buildings that were in existence as of the effective date of these regulations. The PC may grant a waiver, in accordance with Section 4.03, to allow a new use within the current dimensions of such a structure that does not comply with the standards of the district in which it is located. Any exterior renovations needed to accommodate the new use must be compatible with the original architectural design of the structure.

Section 6.06. Decision

- (A) The PC shall make its decision by applying the facts presented in the application and at the required hearing to the criteria listed above and incorporate all into its decision. Upon close of hearing, the PC shall render its decision within 45 days according to Section 3.18 of these regulations.

Article 7. Conditional Use Review

Section 7.01. General

- (A) The Zoning Administrator shall not issue a permit for any use or structure that requires conditional use approval, or for expansion or enlargement or change in use of the existing conditional use until the ZBA grants conditional use approval. Uses requiring conditional use approval are listed in Article 2 as Paragraph (C) of the sections governing each zoning district.
- (B) The ZBA shall make findings on general and specific standards, hold hearings and attach conditions, if any, as provided for in 24 VSA § 4414(3) and all applicable sections of these regulations. Per Section 4413 of the Act, in any district certain uses may be permitted only after approval of the ZBA after public notice and public hearing determines that the proposed use will conform to general and specific standards contained in these regulations.

Section 7.02. Application for Conditional Use Approval

- (A) The applicant shall submit to the Zoning Administrator, at least 25 days prior to the regular meeting on the ZBA, three copies of a letter summarizing the proposed conditional use which addresses all elements of this article, and all other information necessary to illustrate compliance with these regulations and for the ZBA to make its decision, including property identification numbers of property taken from the latest tax records; name and address of the owner of record and those of adjoining lands; name and address of person or firm preparing the map; scale of map; north point and date.
- (B) The ZBA may also require the following:
 - (1) An accurate map or survey of the property showing existing features, including contours relative to sea level, Wetlands, Flood Hazard Areas, structures, decks, large trees, utility easements, location of well-heads, wastewater treatment, rights of way, land use and deed restrictions.
 - (2) A scaled site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscape plans including site grading, curb cuts, landscape design and screening.
 - (3) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 - (4) A description of energy utilization and conservation measures for each heated structure
 - (5) Where the proposed use or structure or activity may result in disturbance of the site, a Soil Erosion and Sediment Control Plan.
 - (6) Copies of all other required permits including state and federal permits, wastewater, potable water and access permits.
 - (7) Other information pertinent to the issue before the ZBA.

Section 7.03. Public Notice and Review Procedures

- (A) The ZBA shall give notice and undertake review as specified in Section 3.16, Section 3.17 and Section 3.18 of these regulations.

Section 7.04. Criteria for Review

- (A) **General Standards.** When determining the appropriateness of a proposed conditional use, the ZBA shall determine that the development or use will not result in an undue adverse affect on any one of the following:
- (1) The capacity of existing or planned community facilities. A conditional use shall not overburden or exhaust existing or planned municipal facilities or services.
 - (2) The character of the area affected. A conditional use may not, by its nature, scale or conduct, cause any undue adverse change or undue adverse effect to the character of the area as it would exist if fully developed in accordance with the Town Plan. To make this determination the ZBA shall consider:
 - (a) The design, location, scale and intensity of the proposed development and/or use relative to the use and character of the neighborhood; and
 - (b) The proposed development's compatibility with the purpose and character of the affected area as defined by the purpose of the zoning district within which the project is located.
 - (c) The proposed development's compatibility with the purpose and character of the affected area as defined by the description in the town plan of the land use area within which the project is located and by the policies and standards of the plan.
 - (3) Traffic on the roads and highways in the vicinity. The estimated traffic generated by the conditional use shall not, in combination with other uses, exceed the road capacity. The ZBA may require a traffic study to determine whether the capacity of the road will be exceeded. Where the capacity of the road to accept increased traffic is limited, the conditional use shall not exhaust or exceed the remaining capacity of the road.
 - (4) Bylaws and ordinances in effect. Proposed conditional uses shall conform to all municipal ordinances, bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Ferrisburgh Town Plan and compliance with conditions of prior permits or approvals, including subdivision approval.
 - (5) Utilization of renewable energy resources. A conditional use shall not interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners' access to such resources.

Section 7.05. Conditions of Approval

- (A) As a result of review of the general criteria listed above, the ZBA in permitting a conditional use, may impose additional standards expressly specified in these regulations, and other conditions found necessary to protect the best interests of the surrounding property, the neighborhood or the town as a whole. These conditions may include but are not limited to:

- (1) Minimum lot size. Where the ZBA has determined that the minimum lot size for the applicable zoning district is inadequate to permit the proposed conditional use without undue adverse impacts to neighboring uses, it may increase the minimum requirements.
- (2) Distance from adjacent or nearby uses. Where the ZBA has determined that the minimum front, side or rear yard setbacks for the applicable zoning district are inadequate to permit the proposed conditional use without undue adverse impacts to neighboring uses, it may increase the minimum requirements in order to protect the coverage or height of buildings because of obstruction to views, vistas, natural areas, wildlife habitat, productive woodlands, historic sites and agricultural land.
- (3) Performance standards. Pursuant to 24 VSA 4414 (3) and Section 5.26 of these regulations, the ZBA may make reasonable adjustments through conditions to control for obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot; or other form of air pollution, heat, cold, dampness, electromagnetic or other disturbance, glare, liquid or solid refuse or waste; or create any dangerous, injurious, noxious, fire, explosive or other hazard.
- (4) Minimum off-street parking and loading facilities. The estimated traffic generated by the conditional use shall not exhaust or exceed the capacity of the road to accept increased traffic unless the applicant agrees to a condition requiring the applicant to upgrade the road. The applicant shall conform to off-street parking and loading standards and the board may require further conditions to permit safe internal circulation or access to the site as it deems necessary.
- (5) Landscaping and fencing. The ZBA may require landscaping or fencing improvements if it determines that the proposed landscaping and buffering are insufficient to screen the adverse impacts of the proposed conditional use from adjoining roads or streets or properties or such additional landscaping is necessary to mitigate adverse visual impacts.
- (6) Design and location of structures and service areas. The ZBA may require such reasonable changes in the design or location of structures and service areas as it deems necessary to ensure that the conditional use will be compatible in scale and design with neighboring uses in the area.
- (7) Size, location and design of signs. A conditional use shall, at minimum comply with the requirements of Section 5.36.
- (8) Construction practices and phasing. The ZBA may require that the applicant phase the project, undertake work during specific seasons or weather conditions, provide assurances for protection of Lake Champlain, shoreline, or river bank, minimize impact during construction and other such conditions as will further the purpose of the zoning district and town policies applicable to the area.
- (9) Other factors. Such other factors these regulations may include and that the ZBA deems are necessary to satisfy the general conditional use criteria specified above.

Section 7.06. Decision

- (A) The ZBA shall make its decision by applying the facts presented in the application and at the required hearing to the criteria listed above and incorporate all into its decision. Upon close of hearing, the ZBA shall render its decision within 45 days according to Section 3.18 of these regulations

Section 7.07. Performance Bond

- (A) As provided in Section 3.19, the ZBA may impose a performance bond on the applicant in order to assure the proper development of the conditional use according to the restrictions and conditions specified by the ZBA.

Article 8. Planned Unit Development (PUD) [MODIFIED]

Section 8.01. Purpose and Authority

(A) **Authority and Definition.**

- (1) For the purposes of these regulations and as enabled in 24 VSA § 4417, planned unit development (PUD) shall include planned residential, commercial or mixed-use development, which may accommodate any combination of uses allowed within the zoning district in which the development will be located.
- (2) The term PUD as defined in these regulations includes solely residential developments, commonly referred to as PRDs.
- (3) PUDs means one or more lots, tracts, or parcels of land to be developed for a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. PUDs, as authorized, may deviate from the requirements of these regulations that are otherwise applicable to the area in which it is located with respect to lot size, bulk or type of dwelling or building, uses, density, intensity, lot coverage, parking, required common open space, or other standards.

(B) **Purpose.** It is the purpose of these planned unit development provisions to:

- (1) Enhance Ferrisburgh's rural character, avoid fragmentation of productive farmland, forests, and wildlife habitat, and encourage any development in the countryside to be compatible with the use and character or surrounding rural lands, and to implement the policies of the municipal plan;
- (2) Accommodate new development in a manner that maintains the town's historic settlement patterns, and protects significant natural, cultural features, and visual character, and in addition allows for compact, village-scale, mixed-use development within historic village centers;
- (3) Encourage creative design and layout of development and an efficient use of land and public facilities and infrastructure;
- (4) Provide opportunities for a diversity of housing types, and promote housing which is both affordable and energy efficient;
- (5) Provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation of traffic, which best fit the intended long term land use in the neighborhood and surrounding rural area;
- (6) Encourage and preserve opportunities for energy-efficient development and re-development;
- (7) Promote a mix of residential and non-residential uses compatible with sustainable rural or village development;
- (8) Provide for the conservation of farmland, forestland, rural character, sensitive natural areas and wetlands, and open space and protection from natural hazards; and
- (9) Carry out the purposes of the *Ferrisburgh Town Plan*, as set forth in the plan's goals and policies.

(C) **Modification of District Standards.** To achieve the objectives set forth in this section, the Planning Commission may modify applicable area, dimensional and other requirements specified elsewhere in these regulations simultaneously with the approval of a subdivision plan and

associated plat, and any conditional use or site plan review that may apply. Such modifications shall be made in accordance with the provisions of this article.

- (D) **Density Bonus.** To achieve the purposes set forth in this article, the Planning Commission may approve PUDs that include intensities of development higher than those expressly permitted by the standards for the district(s) in which the PUD is located as specified in Article 2 and in accordance with the following:
- (1) The Planning Commission shall not allow greater intensities of development than would be allowed under the provisions of Article 2 of these regulations in the following zoning districts:
 - (a) Conservation and Recreation District
 - (b) Shoreland District
 - (c) Conservation Overlay District
 - (d) Forest Upland Overlay District
 - (e) Flood Hazard Overlay District
- (E) **PUDs Involving Two or More Parcels.** Two or more parcels, whether contiguous or noncontiguous and whether in common or separate ownership, may be combined in a single application for review as a PUD.
- (F) **PUDs Involving Two or More Zoning Districts.** In the event that all or a portion of one or more parcels involved in a single PUD is located in a different zoning district than another involved parcel, the total allowable density shall be calculated based on the dimensional standards for each district established in Article 2 of these regulations, and the total acreage of each parcel(s) located within the respective district. That total density may be redistributed between the districts upon the approval of the Planning Commission in accordance with the provisions of Paragraph G. The PC may also allow the redistribution of uses allowed in one district to land located in another in accordance with the provisions of this article.
- (1) To the greatest extent feasible, PUDs that include land in multiple districts shall be designed to avoid locating development within the following districts:
 - (a) Conservation and Recreation District
 - (b) Shoreland District
 - (c) Conservation Overlay District
 - (d) Forest Upland Overlay District
 - (e) Flood Hazard Overlay District
- (G) **PUDs Involving the Relocation of Density.** The relocation of density from one or more parcels onto another parcel shall be administered in accordance with the following:
- (1) The removal of density from a parcel or part of a parcel shall be accomplished through a conservation easement, of a form and content approved by the Planning Commission, to be recorded in the Town Land Records. Such easement shall specify that the protected portions of the parcel are to be used only for open space, agriculture, forestry and non-commercial outdoor recreation purposes. In addition, the easement shall be accompanied by a recordable plat which clearly depicts:

- (a) The boundaries of the parcel;
 - (b) The boundaries of the portion of the parcel to be designated as open space and restricted by the conservation easement; and
 - (c) The total, unallocated density available under current zoning regulations prior to the PUD approval, and shall specify the total reduction of density resulting from that approval, in tabular format.
- (2) The relocation of density on a parcel shall be accomplished through a written agreement, approved by the Planning Commission concurrently with PUD approval under this article. The written agreement shall be of a form and content approved by the PC and may be in the form of a written decision approving the PUD. The agreement shall be recorded in the Town Land Records and shall specify the total density being relocated onto the parcel from other parcels and shall include a deed reference to the easement covering the parcel(s) from which the density originated.
- (3) The density from parcels subject to conservation easements or comparable deed restrictions may not be used to increase the allowable density on another parcel other than the parcel which is identified in the application as the parcel designated for increased density.

Section 8.02. Conformance to the Town Plan

- (A) At the time of PUD approval, the Planning Commission shall include in its decision a finding that the PUD conforms to the Ferrisburgh Town Plan, as well as a clear indication of all approved modifications of development standards, which may include conditions related to the location, scale, density, intensity and/or overall design of future development within the PUD.

Section 8.03. PUDs Required

- (A) Planned Unit Development (PUD) provisions may be applied to development in any zoning district.
- (B) PUDs shall be required for development that meet the following criteria:
- (1) In the West Ferrisburgh Agricultural District, all subdivision of land 15 acres or more in area shall be through a PUD.
 - (2) All subdivision of land 15 acres or more in area wholly or partially located in the Shorland District shall be through a PUD.
 - (3) All new development or re-development in the Civic Center District shall be through a PUD.

Section 8.04. Combined Review

- (A) Applications for PUD shall be reviewed simultaneously with applications for major subdivision review in accordance with the requirements and procedures set forth in Article 9 of these regulations.
- (B) Approval granted by the Planning Commission under this article for a PUD that involves the development of one or more conditional uses shall not exempt the proposed development from conditional use review in accordance with Article 7 unless the ZBA specifically grants conditional use review at the time of PUD approval.

- (C) For PUD applications that are also subject to conditional use review, conditional use review may occur concurrently with final subdivision review in accordance with Article 9.
- (D) For PUD applications that are also subject to site plan review, site plan review shall occur concurrently with final subdivision review in accordance with Article 9.
- (E) A PUD applicant shall seek sketch plan review approval of the proposed PUD from the Planning Commission before proceeding with other applicable reviews.

Section 8.05. Conservation of Open, Common or Public Land

- (A) Pursuant to 24 VSA § 4417(e) and these regulations, all PUDs shall make adequate provision for the protection of open space, or common or public land. The location, shape, size and character of the designated open space, common or public land shall be suitable for the development, considering its location in town, parcel size, development density, topography, and the number and type of units proposed.
- (B) Except for PUDs within the Civic Center District, a minimum of 60% of the parcel to be developed shall be conserved on-site through the PUD. This 60% shall not include the area required for internal roads, driveways, yards or set back areas. The Planning Commission shall require the establishment of development envelopes not to exceed one acre in area for all single- and two-family residential development approved as part of a PUD. The Planning Commission may allow water supply and wastewater treatment systems to be located on conserved lands.
- (C) Off-site mitigation may be considered by the Planning Commission as a mechanism for attaining the 60% conserved land provided that the applicant first make every effort to find land for off-site mitigation within the Town of Ferrisburgh before proposing mitigation in another town in Addison County.
- (D) Off-site mitigation mechanisms shall be as provided in 24 VSA § 4423 and 10 VSA § 6301.
- (E) Pursuant to 24 VSA § 4417(e), standards for the reservation of common land or other open space for use or benefit of the residents of the PUD shall include provisions for determining the amount and location of common land and open space and provisions for ensuring maintenance.
- (F) The Town of Ferrisburgh may accept the dedication of land or interest in land, or easement as part of a PUD application.
- (G) Pursuant to 24 VSA § 4417(e), the PUD applicant shall provide for and establish an organization or trust for the ownership and maintenance of any common facility or open space, and that this organization or trust shall not be dissolved or revoked nor shall it dispose of any common open space, by sale or otherwise, except to an organization or trust conceived and established to own and maintain the common open space, without first offering it to the municipality or other governmental agency to maintain those common facilities or that open space.

Section 8.06. Density Bonus

- (A) The overall density of the project shall not exceed the number of units permitted, in the Planning Commission's judgment, if the land were subdivided into lots in accordance with the standards for the district(s) in which the land is situated, except that the Planning Commission may approve a density bonus for PUDs that meet one or more of the following:
 - (1) More than 60% of the overall parcel is conserved as open space or common or public land through such mechanisms as in perpetuity easements for conservation of open space, conservation of habitat, agricultural lands or forest lands;
 - (2) 20% or more of the proposed dwelling units are created as affordable housing units;
 - (3) Permanent dedication for public recreational access;
 - (4) LEED certification of the project;
 - (5) On-site generation of at least 25% of the electrical demand of the development;
 - (6) Mixed-use project within the Civic Center or North Ferrisburgh Village districts;
 - (7) 300-foot vegetated buffer maintained along the boundary of all streams, lakes, ponds or wetlands;
 - (8) Minimal tree cutting on wooded sites during construction and use of covenants to limit future clearing.
- (B) Where more than 60% of the overall parcel shall be conserved and upon a determination that the PUD meets all applicable criteria and standards of these regulations, the Planning Commission may approve a density bonus of up to 34%.
- (C) Where 20% or more of the proposed dwelling units are created as affordable housing units and upon a determination that the PUD meets all applicable criteria and standards of these regulations, the Planning Commission may approve a density bonus of up to 34%.
- (D) For all other criteria listed in Paragraph (A), the Planning Commission may approve a density bonus of up to 10% (for each criteria) upon a determination that the PUD meets all applicable criteria and standards of these regulations.
- (E) Density bonuses may be combined except that the total density bonus allowed shall not exceed 34% of the allowable density in accordance with the standards for the district(s) in which the land is situated.
- (F) Where the density bonus percentage results in a fraction of a unit, the total number of additional units shall be rounded down to the nearest whole number.

Section 8.07. Application Requirements

- (A) Applications for PUDs shall be submitted simultaneously with applications for major subdivision review in accordance with the requirements set forth in Article 9. In addition to the application materials specified in Article 9, applications for PUDs shall include the following:
 - (1) A statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations and the standards and criteria which the applicant proposes for the

development, including standards for the design, bulk and spacing of buildings and sizes of lots and open spaces; and

- (2) A brief summary of the project and how it meets the standards set forth in this article.
- (3) For projects that include affordable housing, as defined herein, associated management plans and legal agreements that ensure the long-term affordability of such units for a minimum of 15 years or longer.
- (4) Proposed agreement(s) that will ensure the perpetual nature of open space, common or public conserved through the PUD
- (5) Density bonuses being sought.
- (6) Where there are multiple properties or multiple owners involved in developing the PUD the application shall be consolidated into one application, with approval of all owners, and such application shall be treated as a unified, single application binding on all owners and properties.
- (7) In instances in which an applicant proposes development of a portion of a larger parcel, or development of a parcel contiguous to another parcel(s) in common or affiliated ownership, a general indication, preferably a master plan, of the intended use of the remaining (undeveloped) portion of the land shall be submitted in accordance with Article 9.

Section 8.08. PUD Standards

- (A) **General Standards.** In addition to the subdivision standards set forth in Article 9, PUDs shall meet the following:
 - (1) The PUD shall reflect an effective and unified treatment of the development possibilities of the project site.
 - (2) A greater concentration, clustering or intensity of residential development may be located within some portion(s) of the site provided there is an offset by a lesser concentration in another portions and an appropriate reservation of open space on the remaining land.
 - (3) The PUD shall be consistent with the goals and policies of the Ferrisburgh Town Plan.
- (B) **Rural Standards.** In addition to the general standards set forth under Paragraph (A) above, PUDs within the Rural Agricultural Residential, West Ferrisburgh Agricultural and Route 7 Agricultural districts shall be designed to blend new development into the historic, agricultural landscape and maintain important natural, rural and cultural resources as described in the Town Plan.
- (C) **Village Standards.** In addition to the general standards set forth under Paragraph (A) above, PUDs within the North Ferrisburgh Village and Civic Center districts shall be designed in accordance with the following:
 - (1) The layout and configuration of the lots and placement of buildings shall be consistent with the historic pattern and scale of development found within these village centers and shall protect those buildings designated as part of the North Ferrisburgh Historic Village District by the Division of Historic Preservation, or listed on the state or national Register of Historic Places.

- (2) Development within the Civic Center District shall be designed to tightly cluster dwelling units, allow for mixed uses and provide maximum area of land for public, community or school use; pedestrian walkways shall be included in the overall design, to link public buildings in the district.
 - (a) Percentage land area dedicated to public uses and/or public space shall be considered in lieu of the 60% open space conservation applied to PUDs elsewhere in town.

Section 8.09. Public Notice and Review Procedure

- (A) Public notice and review procedure shall be as for major subdivisions as provided in Section 3.16, Section 3.17 and Section 3.18 of these regulations.

Section 8.10. Phasing Development

- (A) The applicant may propose to phase the development of the PUD, and the Planning Commission may require a phased project where the Planning Commission determines that the scale of the proposed PUD may impact the Town's capacity to meet the projected service needs of the PUD.

Section 8.11. Amendment to an Approved PUD

- (A) Any change to an approved PUD, or former PRD, shall require amendment to the prior approval in accordance with Article 9 of these regulations.

Section 8.12. Performance Bond

- (A) As provided in Section 3.19 of these regulations, the Planning Commission may impose a performance bond on the applicant in order to assure the proper development of the PUD use according to the restrictions and conditions specified by the appropriate municipal panel.

Article 9. Subdivision Standards and Review

Section 9.01. Authority

- (A) **Approval Required.** In accordance with the Section 4418 of the Act, whenever any subdivision of land is proposed that is not specifically exempt from these provisions under Paragraph B, subdivision approval by the Planning Commission in accordance with the procedures outlined this article is required prior to undertaking any of the following:
- (1) Any construction, building development, grading, land clearing (excluding forestry, or agricultural or surveying activities) associated with the subdivision of land; or
 - (2) Any sale, conveyance or lease of any subdivided portion of a property; or
 - (3) The issuance of any permit for any land development involving land to be subdivided; or
 - (4) The filing of a subdivision plat with the Town Clerk.
- (B) **Definition.** The subdivision of land is defined in these regulations as the division of any parcel of land, with or without roads, into two or more parcels, lots, plots or other legal division of land for the purpose of transfer of ownership, or development, or long-term lease, or sale. The term subdivision includes re-subdivision involving the adjustment of boundaries between two or more parcels, lots, plots or other legal division of land.
- (C) **Exemptions.** The following are specifically exempted from subdivision review under this Article:
- (1) Parcels leased for agricultural purposes, and no new roads are created for uses other than accepted agricultural practices.
 - (2) The conveyance of rights-of way or easements that do not result in the subdivision of land.
- (D) **Classifying Subdivisions.** For the purposes of these regulations, subdivisions shall be classified by the Planning Commission at the first public hearing as minor or major subdivisions in accordance with the following:
- (1) Minor Subdivisions shall include lot line or boundary adjustments; amendments to an approved subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval; or the subdivision of up to 3 lots over a 5-year period, which does not otherwise qualify as a major subdivision.
 - (2) Boundary Adjustments. Applications for boundary adjustments that are determined by the Zoning Administrator to not appear to result in the creation of a new lot, nor create a non-conforming lot, may be exempted from sketch plan review requirements and proceed immediately to final plat approval with only one public hearing.
 - (3) Major Subdivisions shall include any subdivision containing 4 or more lots or requiring any new (public or private) road or driveway greater than 800 feet in length; amendments to an approved major subdivision which substantially changes the nature of any previous subdivision or conditions of approval; or any planned unit development (PUD) that meets the definition of a subdivision.
 - (4) Master Plan. In instances where an applicant proposes development of a larger parcel or development of a parcel contiguous to another parcel in common or affiliated ownership, or where phasing of development, or potential phasing of development is anticipated, the Planning Commission shall

require applicant to submit a general indication, preferably a Master Plan or equivalent, of the intended use of remaining undeveloped portion of the land. Where it is apparent that additional subdivisions are more likely than not the Planning Commission may classify any subdivision as a major subdivision.

(E) Coordination with Planned Unit Development Review.

- (1) Subdivision applications for Planned Unit Developments (PUD) that meet the definition of subdivision shall be reviewed as major subdivisions under this Article.
- (2) The Planning Commission may recommend to applicant that the submittal of a conventional subdivision application may better meet the provisions of the Town Plan if submitted as a PUD and that density bonuses may be requested by the applicant as per Article 8 of these regulations.
- (3) Conditional use review under Article 7 may occur concurrently with final subdivision review if all application and procedural requirements pertaining to each respective review process are met.
- (4) PUDs shall meet the standards set forth in Article 8, as well as subdivision standards included in this article, unless otherwise waived by the Planning Commission.

Section 9.02. Waivers

- (A) Waiver Authority.** In accordance with the Act, 24 VSA § 4418, the Planning Commission may waive or modify one or more application requirements or subdivision standards if the Planning Commission determines that the requirement:
- (1) Is not requisite in the interest of public health, safety, and general welfare; and
 - (2) Is inappropriate due to the inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision; and
 - (3) Will not have the effect of nullifying the intent and purpose of applicable provisions of these regulations, the Ferrisburgh Town Plan or other municipal bylaws and ordinances in effect.
- (B)** The request for a waiver shall be submitted in writing by the subdivider with the sketch plan submitted under Section 9.03 of these regulations.
- (C)** It shall be the responsibility of the subdivider to provide sufficient information to allow the Planning Commission to justify the waiver or modification of these regulations.
- (D)** In granting waivers, the PC may require such conditions that will, in its judgment, substantially meet the objectives of the requirements so waived or modified.

Section 9.03. Sketch Plan Review

(A) Application Requirements.

- (1) The applicant shall submit to the Zoning Administrator, at least 25 days prior to a regularly scheduled Planning Commission meeting, a complete Sketch Plan Review Subdivision Application, with required information as listed in these regulations and outlined on the application forms, and associated fee. Such information shall include but may not be limited to:

- (a) Survey of the property to be subdivided, with contours at 5-foot intervals, measured from mean sea level.
 - (b) Sketched on the survey the location of proposed layout of lots, roads, access, wetlands, flood hazard areas and related features.
 - (c) Vicinity map of proposed subdivision within Ferrisburgh.
- (2) The application shall include, with the required fee, 1 original and 8 copies of a Sketch Plan Subdivision Application that includes the required information for sketch plan applications. Copies of the proposed sketch plan may be 11" x 17" or smaller.
- (3) The Zoning Administrator shall make a written determination whether the application appears to be complete, with sufficient information to allow the Planning Commission to take action at the next regularly scheduled meeting. An obviously incomplete application shall be returned to the applicant with request for additional information.
- (B) Public Notice and Review Procedure** shall be pursuant to the public notice and review procedure provided in Section 3.16, Section 3.17 and Section 3.18.
- (C) Action on Sketch Plan.**
- (1) The applicant or his/her duly authorized representative, shall attend the public hearing to discuss the application and answer questions related to potable water supply, wastewater disposal, stormwater, street improvements, access and curb cuts, fire protection, and similar aspects as well as availability of existing services or other pertinent information.
 - (2) The Planning Commission shall hold a public site visit to the proposed subdivision.
 - (3) Within 45 days of closing the public hearing on the Sketch Plan the Planning Commission, based on the complete application and information provided by the applicant, shall issue in writing:
 - (a) A determination of whether the subdivision is a minor subdivision, a major subdivision and whether or not a master plan or equivalent plan for a phased project will be required;
 - (b) The granting or denial of requested waiver provisions;
 - (c) A preliminary determination that the proposed subdivision plan generally conforms to applicable subdivision review standards under this Article, and conforms to the Town Plan and other municipal regulations currently in effect;
 - (d) Recommendations for proposed changes in subsequent submissions, including any requests for additional studies or supporting documentation, or other necessary state or town permits.
- (D) Effect of Sketch Plan Determinations.**
- (1) Planning Commission determinations and associated recommendations shall remain in effect for 6 months from the date of issuance, unless otherwise approved or extended in the written determinations issued by the Planning Commission.
 - (2) Within 6 months of the determination by the Planning Commission, the applicant may apply to the Planning Commission for preliminary plan review for a major subdivision under Section 9.04 or final plan and plat approval for a minor subdivision under Section 9.05.

- (E) **Approval of a Sketch Plan or a Preliminary Plan** shall not constitute approval of the final subdivision plan and plat. Before final approval the Planning Commission may require the submission of all applicable approvals of municipal officials and/or agencies having jurisdiction over the project (e.g., Selectboard, Health Officer), and such state and federal agencies as may be required by law.
- (F) **Phasing.** The Planning Commission may require the subdivision plan to be divided into two or more phases to ensure project conformity with the Ferrisburgh Town Plan and the ability of the town to provide adequate service and utilities. Conditions may be imposed upon the filing of application for final plat approval for each phase as the Commission deems necessary to ensure the orderly development of the plan and to avoid overburdening town facilities and services.

Section 9.04. Preliminary Plan Review

- (A) The applicant may choose to request that the Planning Commission hold a two-step approval process with a Preliminary Plan Review step prior to a Final Plan Approval step.
- (B) If, within 6 months of approval of the Sketch Plan, the subdivision appears to be substantially in Final Plan stage the applicant may request that public hearing be set for Final Plan Approval as per Section 9.05 below.
- (C) The format for Preliminary Plan Review, application, notice and procedure are the same as provided in Section 9.05 below.

Section 9.05. Final Plan Approval

- (A) **Application Requirements.**
 - (1) Within 6 months of the date of sketch plan approval for minor subdivisions, or preliminary plan approval for major subdivisions, unless otherwise waived by the Planning Commission, the subdivider shall submit an application for final subdivision plan approval, including plat approval.
 - (2) If the subdivider fails to submit within the 6-month period, the subdivider shall be required to begin the process and resubmit for Sketch Plan Review as described above.
 - (3) The application for final subdivision plan and plat approval shall include associated fees and, unless otherwise specified or waived by the Planning Commission 1 original and 8 copies (plat copies may be 8.5" x 11" or 11" x17" reductions) of the information for final plan and plat review.
 - (4) The final application shall include detailed information including but not limited to: water supply, wastewater disposal, stormwater and erosion control, roads, access, curb cuts, culverts, bridges, building envelopes, lot lines, landscaping, common areas, open space and easements.
- (B) **Public Notice and Procedures** shall be as pursuant to the Act, and as provided in Section 3.16 of these regulations, and, in addition:
 - (1) Notice shall be forwarded to the Addison County Regional Planning Commission, and,
 - (2) Where the plat is located within 500 feet of an adjacent municipality notice shall be sent to the Town Clerk in that municipality at least 15 days prior to the final public hearing, pursuant to 24 VSA § 4463.

- (C) **Applicant present at Public Hearing:** The applicant or his/her duly authorized representative, shall attend the public hearing to discuss the application and answer questions related to potable water supply, wastewater disposal, stormwater, street improvements, access and curb cuts, fire protection, and similar aspects as well as availability of existing services or other pertinent information, and status and copies of all pending or required state or town permits.
- (D) **Final Plan Approval.** In accordance with the Act and Section 3.18 of these regulations, within 45 days of the date of final adjournment of the final public hearing, the Planning Commission shall approve, approve with conditions, or disapprove the final subdivision plan, based on a determination of whether or not the plan and associated plat conform to subdivision review standards, conform to the Town Plan and other municipal regulations in effect.
- (E) **Effect of Final Plan Approval.** The approval by the Planning Commission of a final subdivision plan and associated plat shall not be construed to constitute acceptance of any legal interest by the Town of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard, in accordance with state statute. Each approval for a final plan may contain a time limit within which all improvements necessary for the subsequent development of the subdivided lots (e.g., roads, utilities) shall be completed, not to exceed 3 years unless otherwise required or extended by the Planning Commission.

Section 9.06. Plat Recording Requirements

- (A) In accordance with the Act, within 180 days of the date of receipt of final plan approval the applicant shall file 3 copies of the final subdivision plat, including 1 mylar copy and 2 paper copies, for recording with the town in conformance with the requirements of 27 V.S.A., Chapter 17. Approval of subdivision plats not filed and recorded within this 180-day period shall expire.
- (B) Prior to plat recording, the plat must be signed by at least two authorized members of the Planning Commission.
- (C) The final plat shall not be signed until the subdivider has complied with all necessary state permits and any necessary or required performance bond

Section 9.07. Revisions to an Approved Plat

- (A) No substantial changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the Planning Commission as a minor subdivision and the Commission approves such revisions after public hearing. In the event that such subdivision plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void.

Section 9.08. Application of Standards

- (A) The Planning Commission shall evaluate any minor or major subdivision of land in accordance with the standards set forth in this Article. Where these standards conflict with other provisions of these regulations, the more stringent shall apply.

Section 9.09. General Standards

- (A) **Character of the Land.** All land to be subdivided shall be, in the judgment of the Planning Commission, of such a character that it can be used for the intended purpose(s), as stated in the application, without danger to public health or safety, the environment, neighboring properties, or the character of the area or district in which it is located
- (B) **Conformance with the Ferrisburgh Town Plan & Other Regulations.** Subdivisions of land shall be in conformance with all applicable requirements of these regulations, the Ferrisburgh Town Plan and all other municipal bylaws and ordinances currently in effect. Standards in Articles 7 and 9 shall be applied to all subdivisions. Land subject to periodic flooding shall not ordinarily be subdivided.
- (C) **Compatibility with Existing Settlement Patterns.** Subdivisions shall be designed and laid out to achieve the purpose and desired settlement pattern of the district in which they are located. To the extent feasible, new subdivisions of land shall:
 - (1) Maintain and extend desired settlement patterns, including lot area and configuration, road layout, and building locations, for the neighborhood or district in which they are located;
 - (2) Maintain contiguous tracts of open land, including conservation areas, with adjoining parcels; and
 - (3) Connect to, and extend where appropriate, existing road, path, utility and open space corridors.
- (D) **Density and Lot Layout.** Density, lot size and layout shall conform to zoning district standards, and general standards pertaining to frontage, lot and yard requirements unless modified or waived by the Planning Commission under Planned Unit Development provisions, in accordance with Article 8.
- (E) **Establishment of Building Envelopes.** All lots shall have a designated building envelope. Such building envelope shall be designated to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of the building envelope shall at minimum be determined by district setback requirements, unless otherwise specified in these regulations. The Planning Commission may require the identification of specific building footprints if, in their judgment, such information is required to meet the standards set forth in these regulations.
- (F) **Landscaping and Screening.** The preservation, planting and/or maintenance of trees, hedges, ground cover and other vegetation in one or more areas of land to be subdivided, may be required by the Planning Commission in accordance with the provisions of Section 5.19 of these regulations and the purposes below. Nothing in these regulations shall be interpreted to prohibit

a property owner from performing normal maintenance on approved landscaping to maintain its intended effect and purpose.

- (1) To provide an undisturbed, vegetated buffer between developed and undeveloped portions of a subdivision to protect water quality and/or other natural features.
 - (2) To provide for stormwater infiltration and management;
 - (3) To provide screening of development to increase privacy, reduce noise and glare, or to otherwise soften and/or lessen its visual impacts;
 - (4) To establish and maintain street trees along public or private roads to create a canopy effect and/or maintain a pedestrian scale where the board deems appropriate;
 - (5) To preserve existing specimen trees, tree lines, hedgerows, and wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat; and/or
 - (6) To establish buffers or barriers between incompatible land uses.
- (G) **Energy Conservation.** Energy efficient site design and layout shall be encouraged in the review of a proposed subdivision. In order to promote energy conservation, to the extent that is economically and environmentally feasible:
- (1) Building locations shall maximize solar access (e.g., through southern orientation);
 - (2) Landscaping shall be effectively incorporated to provide wind barriers and to reduce heat loss or gain as appropriate;
 - (3) The siting of lots and buildings shall minimize the length of road and utility corridors required; and
 - (4) Supporting infrastructure for alternative modes of transportation (e.g., interconnected bicycle and pedestrian paths, transit stops) will be incorporated into subdivision design as appropriate.
- (H) **Disclosure of Subsequent Development Plans.** Whenever a subdivider submits a proposal for development on a minor portion of a parcel, the applicant shall provide a general indication of the intended use of the remaining portion of the land in accordance with the following requirements:
- (1) Such indication shall include at minimum a written description of the proposed type and intensity of use, access and schedule for the development of the remainder of the parcel.
 - (2) For major subdivisions, including but not limited to phased and/or planned unit developments, a master plan for the entire parcel may be required which identifies designated primary and secondary conservation areas and other common land and open space; proposed development areas; the general location of proposed infrastructure, including road, utility and green space corridors; and an estimate of the type, density, and timing of future development.

Section 9.10. Protection of Open Space

- (A) Subdivisions shall include provisions for protection of open space, to be approved by the Planning Commission.
- (B) **Creation of Common Land.** Land held in common for the preservation and maintenance of open space; the maintenance and protection of shared facilities, such as community wastewater systems,

community water supplies, recreation or community facilities, or recreation, including road and trails rights-of-way, may be held under separate ownership from contiguous parcels and shall be subject to the legal requirements set forth below.

- (C) **Legal Requirements.** The Planning Commission may require that protected open space be dedicated, either in fee or through a conservation easement approved by the Commission to the Town of Ferrisburgh, Conservation Commission, a community association comprising all of the present and future owners of lots in the subdivision, and/or a non-profit land conservation organization. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long-term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of the applicant and subsequent landowners.

Section 9.11. Stormwater Management and Erosion Control

- (A) As provided in Section 5.40 of these regulations.

Section 9.12. Community Services and Facilities

- (A) **Municipal Facilities and Services.** The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services.
- (B) **Fire Protection Facilities.**
- (1) Adequate water storage or distribution facilities for fire protection within the subdivision shall be provided to the satisfaction of the Planning Commission. Where practicable, or where required by the Commission, fire hydrants, dry hydrants or ponds shall be installed by the subdivider.
 - (2) The applicant shall submit documentation from the Ferrisburgh Fire Department as to the adequacy of emergency access and fire protection facilities.

Section 9.13. Roads & Pedestrian Access

- (A) As provided in Section 5.33 of these regulations.

Section 9.14. Water Supply & Wastewater Disposal

- (A) As provided in Section 5.41 of these regulations.

Section 9.15. Utilities

- (A) **Location.** All utilities systems, existing and proposed, throughout the subdivision shall be shown on the final plat, and be located as follows:
- (1) All utility systems, which may include but not be limited to electric, gas, telephone, fiber optics, and television cable, shall be located underground throughout the subdivision, unless deemed

unreasonable and prohibitively expensive by the Planning Commission (e.g., burial would require extensive blasting and ledge removal for most of length of the utility extension.)

- (2) The subdivider shall coordinate subdivision design with the utility companies to insure adequate and suitable areas for under or above ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.
- (3) Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and be located to minimize site disturbance, the fragmentation of meadowland and other designated conservation areas and to minimize any adverse impacts to natural, cultural resources, and visual character, and to public health.
- (4) Easements. Easements of sufficient width shall be provided to serve both the proposed subdivision and existing and anticipate development outside the subdivision. Such easements shall be shown on the final plat.

Section 9.16. Signs

- (A) Signs will be regulated in accordance with Section 5.36. However, the Planning Commission may place more restrictive conditions regarding the size, height, number and location of signs that those specified by these regulations or state regulations in order to maintain the visual character of the area and ensure the safety and efficiency of pedestrian and vehicular circulation.

Section 9.17. Subdivision Organizations and Restrictions

- (A) When a development involves common ownership of community facilities, open spaces, or other commonly held property, a management organization to operate and maintain these facilities shall be required by the Commission. A prospectus shall be submitted by the subdivider describing this organization, its financing and membership, which must meet the reasonable requirements of the Commission.
- (B) All covenants and easements to preserve agricultural lands or open space, or forestland or conservation areas or road maintenance provisions shall be in writing, clearly indicating which organization has authority to maintain and enforce these provisions. Such covenants and easements shall be approved by the Town Attorney or other legal authority prior to final approval of Subdivision by the Commission.
- (C) All restriction such as may be requested by the proposed Homeowners Association or equivalent shall be reviewed and approved by the Commission prior to final approval. Restrictions shall not be so onerous to potential residents as to prohibit typical rural activities such as having a small flock of chickens, or hanging out laundry to dry on the line outside.

Section 9.18. Performance Bond

- (A) As provided in Section 3.19 of these regulations, the Commission may require a performance bond in order to ensure compliance with conditions.

Article 10. Other Applications

Section 10.01. General Conditions

- (A) Any other applications or uses that require approval of the appropriate municipal panel (AMP), but are not specifically listed here, shall be reviewed under this procedure.

Section 10.02. Application

- (A) The owner shall submit three copies of site plan maps and supporting data to the AMP which shall include the following information, presented in drawn form and accompanied by written text:
- (1) Property identification numbers of property taken from the latest tax records; name and address of the owner of record and those of adjoining lands; name and address of person or firm preparing the map; scale of map; north point and date.
 - (2) An accurate map or survey of the property showing existing features, including contours relative to sea level, Wetlands, Flood Hazard Areas, structures, decks, large trees, utility easements, location of well-heads, wastewater treatment, rights of way, land use and deed restrictions.
 - (3) A scaled site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscape plans including site grading, curb cuts, landscape design and screening.
 - (4) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 - (5) A description of energy utilization and conservation measures for each heated structure.
 - (6) Where the proposed use or structure or activity may result in disturbance of the site, a Soil Erosion and Sediment Control Plan.

Section 10.03. Public Notice and Review Procedure

- (A) The AMP shall give notice and undertake review as specified in Section 3.16, Section 3.17 and Section 3.18 of these regulations.

Section 10.04. Review Criteria

- (A) The AMP may impose conditions and safeguards only with respect to adequacy of traffic access, circulation, landscaping, screening and protection and utilization of renewable energy resources.
- (B) The AMP shall review the plan map and supporting data, taking into consideration the following objectives before approval with or without stated conditions or disapproval is given.
- (1) Safety of vehicular circulation between the site and street network
 - (2) Adequacy of circulation, parking, loading facilities, with particular attention to safety.
 - (3) Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection to adjacent property.
 - (4) Freedom from flooding and ponding.

- (5) Adequacy of landscaping and screening with regard to the potential shading of the most southerly facing wall and/or roof of adjacent building.

Section 10.05. Decision

- (A) The AMP shall make its decision by applying the facts presented in the application and at hearing to the criteria listed above and incorporate all into its decision. Upon close of hearing the AMP shall render its decision according to Section 3.18 of these regulations

Article 11. Definitions

Section 11.01. Interpretation

- (A) Definitions contained in the Vermont Planning and Development Act shall be applicable throughout these regulations unless otherwise specifically defined in Section 11.02, 11.03 or 11.04 below.
- (B) Unless the content clearly indicates to the contrary, words in the singular include the plural, and those in the plural include the singular. The word “person” includes a corporation, unincorporated association, and a partnership as well as an individual. The word “building” includes structures and shall be construed as if followed by the phrase “or part thereof.” The word “may” is permissive, and the words “shall,” “will” and “must” are mandatory.

Section 11.02. General Definitions

- (A) A
- (1) **ABUTTING LANDOWNER:** a person who owns land in fee simple if that land:
 - (a) Shares a boundary with the tract of land where the proposed or actual development or subdivision is located; or
 - (b) Is adjacent to a tract of land where a proposed or actual development or subdivision is located and the two properties are separated only by a public road, a river or stream.
 - (2) **ACT or THE ACT:** Title 24, VSA, Chapter 117, The Vermont Municipal and Regional Planning and Development Act.
 - (3) **ACCEPTED AGRICULTURAL PRACTICES:** This Bylaw shall not regulate accepted agricultural practices as defined by the Secretary of the Agency of Agriculture, Food and Markets.
 - (4) **ACCESS PERMIT:** A permit required for all development that requires a new or modified curb cut or access to a parcel or lot or other legal division on land. Such access permit is approved by the Selectboard through the Road Foreman for access on to town roads. Access onto Route 7 or 22A requires a State approved Access permit prior to development. (See also: “CURB CUT”)
 - (5) **ACCESSORY APARTMENT:** A dwelling unit that meets the provisions of Section 5.03 of these regulations. Such an apartment shall be an accessory use to an owner-occupied dwelling if it is an efficiency or one-bedroom apartment, if the area of the apartment does exceed 30 percent of the total habitable floor area of the principal dwelling, and if the unit is within the principal dwelling or in an accessory building to that dwelling that meets all the applicable standards for the district in which it is located.
 - (6) **ACCESSORY STRUCTURE OR USE:** A structure or use which is incidental and subordinate to the principal building or use located on the same lot.
 - (7) **ADJOINING LANDS:** Shall include lands directly abutting a parcel or a private right-of-way, and lands across public waters or public roads.
 - (8) **ADVERSE IMPACT/ADVERSE EFFECT:** A condition that creates, imposes, aggravates, contributes to, or leads to inadequate, impractical, unsafe, unsightly, offensive or unhealthy conditions on a site proposed for development.

- (9) **AGRICULTURAL SOILS:** Primary Agricultural soils means soil map units with the best combination of physical and chemical characteristics that have the potential for growing food, feed and forage crops, have sufficient moisture and drainage, plant nutrients or responsiveness to fertilizer, few limitations for cultivation or limitations which may be easily overcome, and an average slope that does not exceed 15%. Present uses may be cropland, pasture, regenerating forests, forestlands or other silvicultural or agricultural uses. However, soils must be of a size and location relative to adjoining land uses such that those soils will be capable, following any identifiable limitations, of supporting or contributing to an economic or commercial agricultural operation. Primary agricultural soils shall include important farmland map units with a rating of prime statewide or local
 - (10) **AGRICULTURAL USE:** Land or structure used for raising livestock, growing agricultural or forest products, storing agricultural equipment, or selling agricultural products, produced on the property, and pursuant to the definition of farming found at 10 VSA 6001 (22).
 - (11) **AIRCRAFT LANDING STRIP:** An aircraft runway without airport facilities.
 - (12) **AIRPORT:** An aircraft runway licensed by the State of Vermont.
 - (13) **ALTERATION:** Structural change, rearrangement, change of location, increase in the number of bedrooms, enlargement or addition to a building.
 - (14) **APPURTENANT:** An accessory apartment or other structure is appurtenant to a primary dwelling or other type of principal use when it satisfies both of the following tests:
 - (a) The accessory structure is located within a short distance of the principal structure, generally less than 100 feet, and
 - (b) The accessory structure shares all or a portion of the same infrastructure (such as water, wastewater disposal, electricity) as the principal structure and is clearly subordinate to the principal structure.
 - (15) **ARMY CORPS OF ENGINEERS:** Federal body having jurisdiction over shorelands and public waters below an elevation of 105 feet above mean sea level. (See also "LAKE CHAMPLAIN").
 - (16) **AUTHORIZED AGENT:** A person or group of persons, who have been duly authorized in writing, filed with the Planning Commission or Zoning Administrator by an applicant to act on his or her behalf.
- (B) B
- (1) **BASEMENT:** Story partly or wholly underground. A basement shall be counted as a story if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is, at minimum, 6 feet.
 - (2) **BED & BREAKFAST:** A single-family dwelling unit or farmhouse and accessory buildings in which the resident owner or permanent dwelling occupant provides short-term lodging and meals to transient paying guests and or staff.
 - (3) **BOUNDARY ADJUSTMENT:** A minor division of land for the purpose of adjusting boundaries between adjacent lots or parcels where all of the following are met:
 - (a) No new lot or parcel is created;
 - (b) The boundary adjustment does not create a non-conforming use or lot; and
 - (c) The Planning Commission approves the adjustment after public hearing and notice.

- (4) **BUILDING:** Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or personal property. Including, but not limited to, any carport, porch, utility storage shed, mobile home or steps covered overhead.
- (5) **BUILDING AREA/FOOTPRINT:** The ground area, footprint, enclosed by the exterior surfaces of the walls of a building, together with the areas of all covered porches and other roofed portions.
- (6) **BUILDING/DEVELOPMENT ENVELOPE:** The area on the parcel or lot within which all the development and disturbance of land will be located, including primary and secondary or accessory buildings. This includes well sites and wastewater systems unless expressly excluded.
- (7) **BUILDING FRONT LINE:** Line parallel to the street line transecting that point of the building that is closest to the street line (see Diagram 2). Where a lot fronts on public water but not on a public road, "high water line" (98 feet above mean sea level), or top of the river bank, shall replace "street line" in this definition. (See also LAKE CHAMPLAIN MEAN WATER LEVELS)

Diagram 2: Building Lines

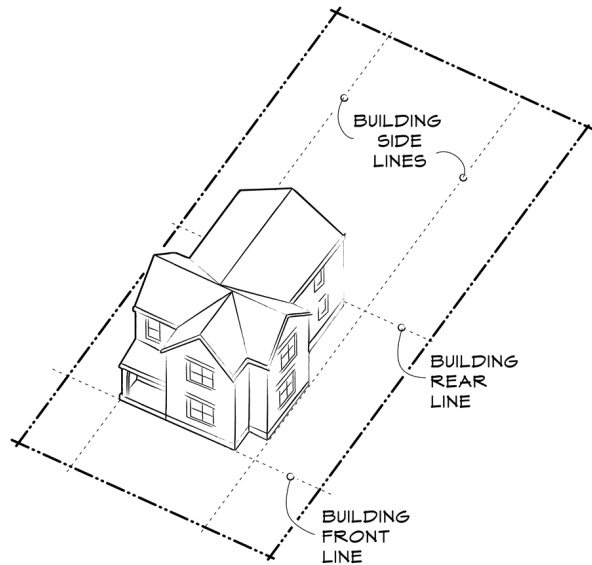
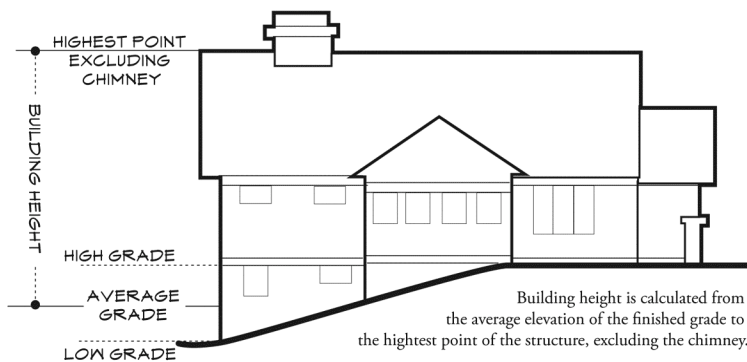


Diagram 3: Building Height



- (8) **BUILDING HEIGHT:** Vertical distance measured from the average elevation of the proposed finished grade at the front or the rear of the building to the highest point of the structure (see Diagram 3).

- (9) **BUILDING REAR LINE:** Line parallel to the street line transecting

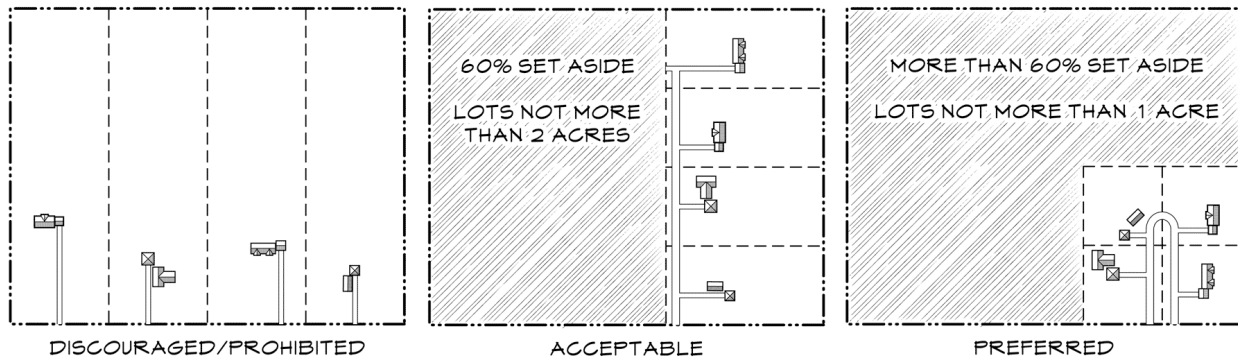
that point of the building that is farthest from the street line (see Diagram 2). Where a lot fronts on public waters but not on a public road, "high water line" (98 feet above mean sea level), or top of the river bank, shall replace "street line" in this definition. (See also LAKE CHAMPLAIN, MEAN WATER LEVELS).

- (10) **BUILDING SIDE LINE:** Line parallel to the nearest side lot line transecting that point of the building that is nearest the side lot line (see Diagram 2).

(C) C

- (1) **CAMP/SEASONAL USE DWELLING:** A dwelling unit which is not used as a primary single family residence and which receives limited intermittent use on a seasonal basis for no more than six consecutive months and which probably has limited access and services.
- (2) **CAMPER:** Any motorized or non-motorized vehicle mounted on wheels and used as sleeping, camping or living quarters. This includes a camper body mounted or intended to be mounted on a truck, and excludes mobile homes. Includes vehicles described as Recreational Vehicles (RV's).
- (3) **CAMPGROUND:** Any tract of or parcel of land occupied by three (3) or more campers, tents, or tent-sites or equivalent.
- (4) **CEMETERY:** Public or private burial ground.
- (5) **CERTIFICATE OF COMPLIANCE:** A certificate, or letter issued to an owner by the Town Zoning Administrator certifying compliance with applicable zoning regulations and permits.
- (6) **CHURCH OR OTHER PLACE OF WORSHIP:** A building where persons regularly assemble for a religious purpose, and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. This definition includes church, synagogue, temple, mosque, convent, parish house or other such place for worship and religious activities.
- (7) **CLEAR CUTTING:** Complete or substantial removal of all trees greater than three (3) inches in diameter at breast height in a given area.
- (8) **CLINIC:** A non-residential office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.
- (9) **CLUB:** Building or use catering exclusively to club members and their guests for recreational, educational or service purposes.
- (10) **CLUSTERING:** A development design technique that concentrates buildings in specific areas on a site to allow remaining land to remain undeveloped and available for agriculture, forestland, open space, recreation or preservation of natural habitat or other natural or cultural features (see Diagram 4).

Diagram 4: Cluster Development



- (11) **COMMERCIAL PARKING LOT:** Either:
 - (a) A facility where, for a fee, registered motor vehicles may be parked for a period of time; or
 - (b) A facility, such as a used car business, where cars are parked for a period of time for sale.
 - (12) **COMMUNITY CARE HOME:** See **GROUP HOME**
 - (13) **COMMUNITY FACILITY:** Any state or community owned facility or institution such as schools, library, meeting hall, museum or other similar type of establishment.
 - (14) **CONDITIONAL USE:** Use which may be permitted only by approval of the Zoning Board after public notice and public hearing to determine whether the proposed use will conform to general and specific standards as set forth or referred to in these regulations and pursuant to the Act.
 - (15) **CONDOMINIUM:** Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.
 - (16) **CONSTRUCTION DRAWING:** Drawings showing the location, profile grades, size and type of drains, wastewater system, water lines, wells, underground utilities, pavements, cross sections of streets and miscellaneous structures.
 - (17) **CONTIGUOUS:** A land area shall be contiguous even when crossed, bisected or otherwise encumbered by state or town highways, roads, private rights of way, road and utility line rights of way, easements, watercourses or other encumbrances or easements. A parcel of land shall be considered contiguous to another parcel of land if it meets the other parcel of land at any point.
 - (18) **CONTRACTOR'S YARD:** Lot and/or buildings used to store a construction contractor's equipment and materials.
 - (19) **CONVENIENCE STORE:** An retail establishment whose principal use is the sale of products in small quantities for the daily use of customers including, but not limited to, bakeries, food stores, gas station, newsstand and ice cream stand.
 - (20) **CURB CUT:** An access area, typically 60 foot wide, which is constructed in accordance with the Ferrisburgh Highway Standards; OR an access for ingress or egress to or from Route 7, for which a state permit shall be obtained. (See also "ACCESS PERMIT").
- (D) D
- (1) **DAYCARE CENTER:** A childcare facility serving more than 6 full-time and 4 part-time children. See also Family Childcare Home. See Family Childcare Home.
 - (2) **DEGREE OF NONCONFORMITY:** The measurable extent to which an existing lot, use, structure or part of a structure fails to comply with the standards of these regulations. For example, a structure that does not meet the front yard setback for the district in which it is located can be enlarged to the rear without increasing its degree of nonconformity. While an existing auto repair shop in a district that allows only residential uses could not be converted to add a gasoline station because it would increase the intensity of the use and therefore the degree of nonconformity.
 - (3) **DRIVE-IN FACILITY:** An establishment designed or operated to serve a patron while seated in a motor vehicle parked in an off-street parking space.
 - (4) **DRIVEWAY:** A private access road serving not more than three dwellings.

- (5) **DUMP:** See Junkyard and also Sanitary Landfill
 - (6) **DWELLING UNIT:** Building or part thereof used as living quarters for one family which includes facilities for food preparation, sleeping and sanitary facilities. The terms dwelling unit, one-family dwelling, two-family dwelling or multiple-family dwelling shall not include a bed and breakfast or motel.
 - (7) **DWELLING, SINGLE-FAMILY:** Detached building used as living quarters by one family.
 - (8) **DWELLING, TWO-FAMILY:** Building used as living quarters by two families living independently of each other.
 - (9) **DWELLING, MULTIPLE-FAMILY:** Building used as living quarters by three or more families living independently of each other.
 - (10) **DWELLING UNIT, SEASONAL:** See “CAMP SEASONAL USE DWELLING”
- (E) E
- (1) **EASEMENT:** The authorization by a property owner, designating a designated part or use of his or her property to another person or entity.
 - (2) **EQUIPMENT SALES AND SERVICE:** A retail establishment for the display, sale, lease and repair of machinery and equipment including but not limited to farm machinery, boat equipment, recreational vehicle equipment, fishing or camping equipment.
 - (3) **EXTRACTION:** Removal of stone, gravel, sand or topsoil by blasting, digging or other mechanisms.
- (F) F
- (1) **FAMILY:** One or more persons living, sleeping, cooking and eating on the same premises, and functioning as a single housekeeping unit.
 - (2) **FAMILY CHIDCARE HOME OR FACILITY:** A family childcare home or facility as used in these regulations means a home or facility where the owner or operator is licensed or registered by the state for childcare. A family child care home serving no more than six (6) full-time and four (4) part-time children as defined in 33 VSA 4902(3)(A), shall be considered to constitute a permitted use of property on the same conditions as a single family dwelling. A family childcare facility serving more than 6 full-time and 4 part-time children shall be reviewed as a conditional use in zoning districts where it is allowed.
 - (3) **FARMING:** As defined in 10 VSA 6001 (22). See also AGRICULTURAL USE
 - (4) **FARM HOUSING:** Dwelling provided specifically for person(s) working on the farm, which may be permanent, seasonal or year-round.
 - (5) **FARM STRUCTURE:** A building, enclosure or fence for housing or enclosing livestock, raising horticultural or orchard plants, or carrying on other activities associated with accepted agricultural or farming practices, including but not limited to a silo, greenhouse, apple packing shed, sugarhouse, tractor storage shed, or chicken coop.
 - (6) **FENCE:** Structure used primarily for enclosure or screening. (See STRUCTURE)
 - (7) **FILL:** Placement of more than three dump truck load of material into a ditch or other place with the intention of filling in a shallow area or leveling ground.

- (8) **FINAL SUBDIVISION PLAT OR PLAN:** The final plan drawings of the developer presented to the Planning Commission for approval that may, if approved, be filed for record in the Land Records of Ferrisburgh.
- (9) **FINISHED GRADE:** Completed surfaces of ground, lawn, walks, paved areas and roads brought to grade and shown on plans related thereto.
- (10) **FLOOR AREA:** Sum of the gross horizontal area of the floors of a building, excluding basement floor areas, unless said basement floor area is counted as a story under definition of "basement". All dimensions shall be exterior.
- (11) **FORESTRY:** The science, art and practice of managing and using trees, forests and their associated resources for human benefit using acceptable forest management methods.
- (12) **FRAGMENTATION OF HABITAT:** Breaking up a specific habitat into smaller unconnected areas resulting in an area that is too small to provide enough space to maintain a breeding population of a given species.
- (13) **FREIGHT OR TRUCKING TERMINALS:** The buildings, facilities and parking areas used for the loading, dispatching and storage of freight, freight vehicles, including but not limited to trains, buses and trucks.
- (14) **FRONT YARD SETBACK:** The front yard setback shall be measured from the centerline of the existing roadway or right-of-way. It consists of the depth of the front yard (distance from building front line to street line) plus the distance from the street line to the centerline of the existing roadway. Where the parcel or lot has frontage on Lake Champlain the front yard setback shall consist of only the depth from the mean water mark (95.5 feet above sea level). Where a parcel fronts on Little Otter, Otter or Lewis Creek, the front yard set back shall be from the Top of the Bank. See diagrams at definition of **SETBACK**.

(G) G

- (1) **GASOLINE STATION:** Any lot or area of land, including the building or buildings thereon which is used for the sale of any motor vehicle fuel whether or not said use constitutes primary or accessory use.
- (2) **GOVERNMENT FACILITY:** Any building or land held, used or controlled exclusively for public purposes by any department or branch of municipal, state or federal government, or subdivision thereof, without reference to the ownership of the building or the reality upon which it is situated.
- (3) **GROUP HOME/COMMUNITY CARE HOME:** Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 VSA 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs. Group homes shall be considered permitted uses in all districts on the same basis as single family homes, except that no such home shall be considered a permitted use if it is located within 1000 feet of another existing or permitted home.

(H) H

- (1) **HEAT:** Thermal energy of a radioactive, conductive, or convective nature.

- (2) **HEAVY MANUFACTURING OR INDUSTRY:** The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in substantial off-site impacts or all such activity and storage of raw or finished products is not enclosed inside a building or screened from the abutting properties and public rights-of-way. Such uses include, but are not limited to, the following: paper, pulp, or lumber mills; freight or trucking terminals; contractor's yards; concrete, asphalt, or brick plants; quarries; bulk fuel storage of over 550 gallons; slaughter houses, rendering, hide tanning; manufacturing or processing of fertilizer, bone, rubber, ammonia, chlorine, petroleum products, gas or explosives, and other similar uses.
- (3) **HIGH WATER LEVEL:** 98 feet above mean sea level. See "LAKE CHAMPLAIN"
- (4) **HISTORIC BUILDING OR STRUCTURE:** Any building or structure that has been certified in writing by the Vermont Division for Historic Preservation, and/or is listed in the Historic Architecture of Addison County, Vermont Division of Historic Preservation, 1992 or any building which the Ferrisburgh Historic Society will attest is significant to the history of the town or any building or structure which is eligible for listing in the National Register of Historic Places, or National Register of Historic Places, or within an historic District.
- (5) **HISTORIC DISTRICT:** A district or zone designated by the town, or state or federal government, in which the buildings, structures and places are of importance because of their history; or because of their architectural style, scale, proportion, or form; or because of their relation to an area of town in which the general arrangement should be preserved and or developed according to historical, cultural or architectural purposes.
- (6) **HOMEOWNERS ASSOCIATION:** A community association, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.
- (7) **HOME-BASED BUSINESS 1:** A home business that meets the provisions of Section 5.17 of these regulations.
- (8) **HOME-BASED BUSINESS 2:** A home business that meets the provisions of Section 5.17 of these regulations.
- (9) **HOME OCCUPATION:** An accessory use of a residence that meets the provisions of Section 5.17 of these regulations. A home occupation will be permitted as an accessory use of residential property if the business owner and operator reside in the single-family dwelling on the lot, if the business does not employ any non-resident employees, and if the home occupation is carried on within a minor portion of the dwelling.
- (10) **HOUSING, AFFORDABLE:** Housing that is owned or rented by its inhabitants, whose gross annual income does not exceed 80 percent of the county median income as defined by the US Department of Housing and Urban Affairs, and the total annual cost of the housing, for owners (including principal, interest, taxes and insurance) and for renters (including rent, utilities, and condominium association fees) is not more than 30 percent of the household's gross annual income (24 VSA 4303(1)(A)).
- (11) **HOUSING, LOW INCOME:** Housing that is affordable, according to the US 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.

(12) **HOUSING, MODERATE INCOME:** Housing that is affordable, according to the US 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 which does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which housing is located.

(I) I

(J) J

(1) **JUNKYARD:** Either (a) 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; or (b) any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more unregistered motor vehicles, tractors or other junked old appliance, or materials. The term does not include a private garbage dump or a sanitary landfill that complies with VSA 24 Section 2202 and the regulations of the secretary of human services. The term does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

(K) K

(1) **KENNEL:** Any lot or premises on which 4 or more dogs, over the age of four months, are kept for sale, commercial breeding or for boarding purposes.

(L) L

(1) **LAKE CHAMPLAIN:**

(a) Mean High Water Mark

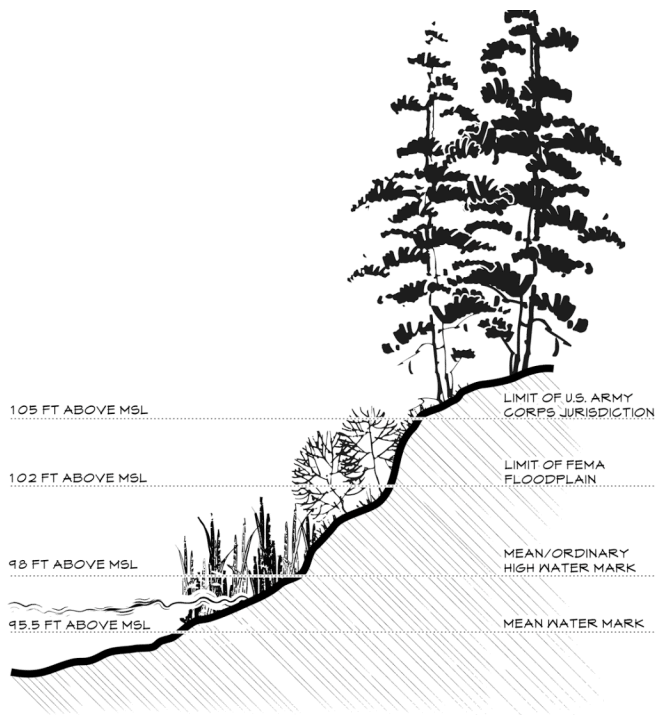
or Ordinary High Water Mark, OHW as established by the U.S. Army Corps of Engineers at 98 feet above mean sea level (msl)

(b) Mean Water Level of 95.5 feet above msl as established by the Water Resources Board of the State of Vermont.

(c) Flood Level of 102 feet above msl as established by FEMA.

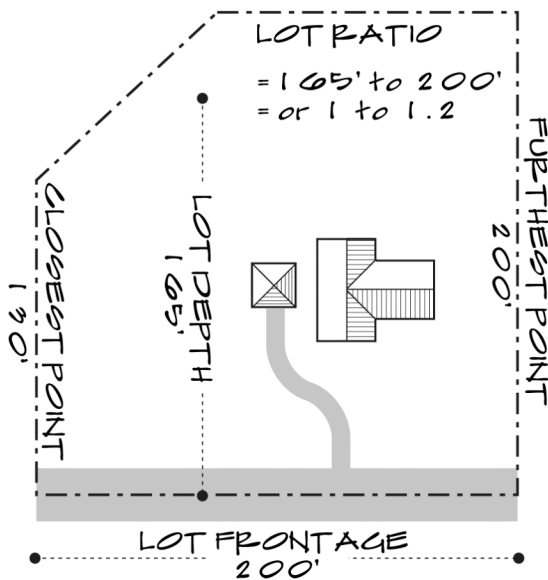
(d) US. Army Corps of Engineers Jurisdiction in Fresh Waters up to 105 feet above msl.

Diagram 5: Lake Champlain Elevations



- (2) **LAND DEVELOPMENT:** The division of a parcel into two or more parcels; the construction, reconstruction, conversion, alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill; and any change in the use of any building or other structure or land or extension of use of land. This shall also include the conversion of seasonal dwellings and / or camps to year-round use.
- (3) **LANDSCAPE PLAN:** A component of a development plan on which is shown: proposed landscape species (including names of species, size at time of planting, number, spacing and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.
- (4) **LIGHT MANUFACTURING OR INDUSTRY:** The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in no substantial off-site impacts and all such activity and storage of raw or finished products is enclosed in a building or is screened from the abutting properties and public rights-of-way. Such uses include but are not limited to the following: blacksmith's shop or foundry; cabinetry or woodworking shop; electronics or high-tech manufacturing or assembly; machine shop; monument or stone works; sewing; printing; warehousing; wholesale trade; diesel engine, truck, tractor, or heavy equipment storage, sales, or repair; research and testing laboratory; and other similar uses.
- (5) **LOADING SPACE:** Off-street space, which is at least twelve feet wide, forty feet long and fourteen feet high, not including access driveway, and having direct access to a street or alley, used for the temporary location of one licensed motor vehicle.
- (6) **LOT:** A plot or parcel of land and premises, with or without buildings, capable of being occupied by at least one principal building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by these regulations. This definition includes an existing small lot that may not meet minimum area, width or depth requirements.
- (7) **LOT AREA:** Total area within the property lines excluding any part thereof lying within the boundaries of an existing or proposed street or right-of-way.
- (8) **LOT, CORNER:** A lot that has an interior angle of less than 135 degrees at the intersection of two streets or two paved or gravel driveways.
- (9) **LOT COVERAGE:** That percentage of the lot area covered by the building area including patios and decks, covered or uncovered.
- (10) **LOT DEPTH:** The average of the shortest and longest distance measured along a straight line at right angle to the lot frontage from the rear lot line to the street line or front lot line. Where a lot fronts on public waters of Lake Champlain but not a public road, 'mean high water mark' of 98 feet above mean sea level, shall replace 'street line' in this definition. Where a lot has frontage on Otter Creek, Little Otter Creek or Lewis Creek, Lot depth is measured from the top of the bank. See Diagram 6 and 7. Note that for measuring the setback from Lake Champlain for development purposes that the setback measurement from the Lake is set at 95.5 feet above msl, or mean water level. See "SETBACK"

Diagram 6: Lot Depth, Frontage and Ratio



Lot frontage will be measured across the width of the lot at the public or private road, or at the mean high watermark for shoreline lots on Lake Champlain. Lot depth will be measured as the average horizontal distance perpendicular from the street line (or shoreline) to the rear lot line.

For irregularly shaped lots, the lot depth will be the average of the furthest and closest points along the rear lot line from the street line (or shoreline).

Lot ratio can be calculated either as frontage to depth or depth to frontage.

- (11) **LOT FRONTAGE:** A distance measured across the width of the lot at the public road or, in the absence of a public road, the public waters. Pre-existing interior lots accessed by a right-of-way in perpetuity and approved by the Planning Commission do not require frontage.
 - (12) **LOT LINE:** Property lines bounding a lot.
 - (13) **LOT LINE, REAR:** The lot line opposite and most distant from the public road or street line. Where a lot fronts on public waters but not on a public road, 'mean high water mark of 98 feet shall replace 'street line' in this definition. Note that for measuring the setback from lake Champlain for development purposes that the setback measurement from Lake Champlain is 95.5 feet above msl or mean water level. See SETBACK.
 - (14) **LOT WIDTH:** Shall mean the horizontal distance between the side lot lines of a lot measured along a straight line, parallel to the front line at the minimum required building setback.
- (M) M
- (1) **MARINA:** A use characterized by sales, repairs, derricks, docks, wharves, marine railways, boat storage areas and marina facilities for the commercial servicing, maintenance, storage, docking of vessels or the furnishing of general marina services which may include sales of food or other items clearly incidental to the operation of the other marine based activities.
 - (2) **MEAN WATER LEVEL:** The terms mean water mark, mean water level and normal mean watermark are considered to be one and the same. For Lake Champlain the mean water level has been established by the State of Vermont Water Resources Board as 95.5 feet above mean sea level.
 - (3) **MINOR PORTION OF A DWELLING:** Less than 30% of the total square footage of the dwelling.
 - (4) **MIXED USE:** A lot or structure containing two or more uses.

- (5) **MOBILE/MODULAR/MANUFACTURED HOME:** A pre-fabricated dwelling unit which is designed for long term and continuous residential occupancy, is designed to be moved on wheels (mobile home) or as a whole or in sections (modular/manufactured home), and is ready for occupancy upon arrival at the site except for incidental unpacking, assembly, connections with utilities, and placement on supports or foundation or any structure for which the manufacturer voluntarily files a certification required by the US Department of Housing and Urban Development and complies with the standards established under Title 24 of the US Code and 10 VSA 6201 (1) governing mobile homes.
- (6) **MOBILE HOME PARK:** Any parcel or land under single or common ownership or control that 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 solely used on a seasonal basis for vacation of recreational mobile homes 10 VSA 6201 (2).
- (7) **MOTEL:** A building or group of buildings used for providing overnight lodging facilities to the public for compensation, with or without meals. Does not include bed and breakfast.
- (8) **MOTOR VEHICLE SALES FACILITY:** A retail establishment for the display, sale or lease of motor vehicles, including but not limited to cars, trucks, vans, campers, boats, motorcycles, farm machinery or snowmobiles, includes enclosed showrooms and parking lots.
- (9) **MOTOR VEHICLE SERVICE STATION:** Any lot or area of land including the building or buildings thereon, which is used for or which has commercial facilities for lubrication, washing, painting, repairing, or servicing motor vehicles.
- (10) **MUNICIPAL FACILITY:** Any building or land held, used or controlled exclusively for public purpose.
- (11) **MUSEUM:** Land and buildings where objects having historical, artistic or scientific value are deposited, stored, displayed, available for study and educational purpose and open to the public.

(N) N

- (1) **NATURE PRESERVE:** An area of land specifically set aside and under public, or non-profit or private ownership or control for the protection or conservation of plant or animal or bird species or habitats.
- (2) **NONCONFORMING LOTS OR PARCELS:** Lots or parcels which do not conform to the present bylaws covering dimensional requirements but which were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator. 24 VSA 4303 (13)
- (3) **NONCONFORMING STRUCTURE:** A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of an error by the Zoning Administrator. 24 VSA 4303 (14).
- (4) **NONCONFORMING USE:** Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present

bylaws, including a use improperly authorized as a result of error by the Zoning Administrator. 24 VSA 4303(15).

(O) O

- (1) **OVERLAY DISTRICT:** A zoning district that encompasses one or more underlying zones and that impose additional requirements above those required in the underlying zone.

(P) P

- (1) **PARCEL:** A tract of land in the same ownership, which may be divided by a public or private road, or right-of-way, and which may contain more than one lot (see LOT).
- (2) **PARKING SPACE:** Off-street space used for the temporary location of one licensed motor vehicle, such space being at least nine feet wide and twenty-two feet long, not including access driveway and having direct access to a street.
- (3) **PERMITTED USE:** Use specifically allowed in the district, providing performance standards are met, excluding illegal uses and non-conforming uses.
- (4) **PLANNED UNIT DEVELOPMENT (PUD):** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses.
- (5) **PLAT:** A document of record graphically depicting a plot of land.
- (6) **PRIMARY/ PRINCIPAL USE:** The main use or chief purpose of land or structures, as distinguished from a secondary or accessory use.
- (7) **PROFESSIONAL OFFICE:** Professional office including architect, accountant, dentist, doctor, lawyer, engineer, psychologist or other similar occupation.
- (8) **PUBLIC ROAD:** Any road accepted as a state or town highway including Class 4 roads and trails.
- (9) **PUBLIC UTILITY STRUCTURE:** A structure used in conjunction with a publicly owned utility, including, but not limited to water, sewer, cable, telephone, electricity or similar utilities.
- (10) **PUBLIC WATER SUPPLY:** A system of water supply owned and operated by a municipality, Fire District or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for purposes of public water supply.
- (11) **PUBLIC WATERS:** Navigable waters of Lake Champlain and navigable lower reaches of Otter Creek, Little Otter Creek and Lewis Creek.
- (12) **PUBLIC WATERWAY:** Any waterway that is navigable when Lake Champlain is at mean water level of 95.5 feet above mean sea level.

(Q) Q

- (1) **QUARRYING:** Shale, gravel, marble, granite or other stone extraction operations and any land development accessory thereto. Quarrying includes the enlargement of any existing quarrying excavations.

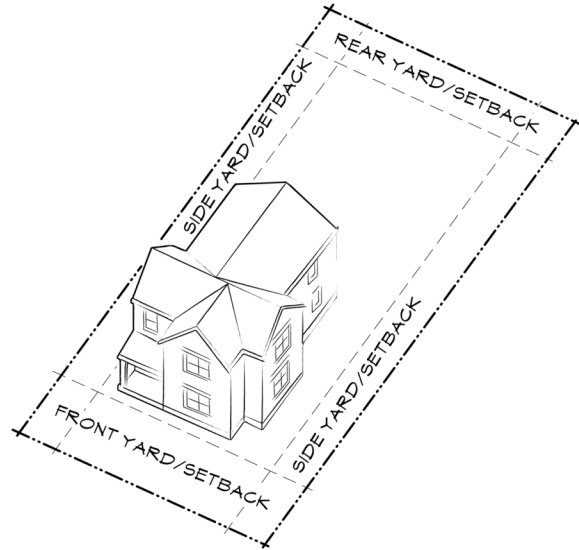
(R) R

- (1) **RECEIVING AREA:** Land to which development rights are transferred from a sending area that results in an increase in allowable density for the receiving area.

- (2) **RECREATION, INDOOR:** Bowling alley, theater, pool hall, arcade, skating rink, gymnasium, swimming pool, or other similar places of indoor recreation.
- (3) **RECREATION, OUTDOOR:** Walking trail, bike path, cross country ski trail, VAST trail, golf course, driving range, skating rink, park, beach, recreation stadium, skiing facility, playground, ball field, commercial stable, swimming pool, or other similar places of outdoor recreation.
- (4) **RECREATIONAL VEHICLE:** see CAMPER
- (5) **RENEWABLE ENERGY RESOURCE STRUCTURE:** A structure for the collection or conversion into energy of direct sunlight, wind, running water, organically derived fuels, including wood, agricultural sources, waste materials, waste heat and geothermal sources.
- (6) **REPAIR AND SERVICE FACILITY:** Any building premises or land where a business, service or industry involving the maintenance, servicing, repair or painting of machinery is conducted or rendered. A repair and service facility is not a gasoline station.
- (7) **RESIDENTIAL HEALTH CARE FACILITY:** Any residential facility for the diagnosis or treatment of human ailments, including but not limited to hospital, sanitarium, nursing home, convalescent home, and hospice.
- (8) **RESIDENTIAL USE:** One-Family dwelling unit, two-family dwelling units, or multiple-family dwelling units.
- (9) **RESORT:** A lodging facility for transient guests and staff where the primary attraction is recreational features and activities typically within a self-contained complex and developed and operated as a single entity with lodging facilities, recreation, food and other services for guests.
- (10) **RESTAURANT:** A public eating establishment in which the primary function is the preparation and serving of food.
- (11) **RE-SUBDIVISION:** A change of recorded subdivision plat if such changes affect any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any change if it affects any map or plan legally recorded.
- (12) **RETAIL, CONVENIENCE:** see CONVENIENCE, RETAIL
- (13) **RETAIL SALES:** Shall mean an establishment whose principal use is the sale of products for consumption or use by the customer off the premises. This shall include but not be limited to hardware, paint, office equipment, sporting goods, trading stamp and redemption outlets, television, satellite dishes, automotive supply and major household appliance stores.
- (14) **RETAIL STORE:** Any enclosed business concerned primarily with rental or the sale of produce, products, goods, equipment or commodities; and excluding any drive-in facility, road side agricultural stand, gasoline or motor vehicle service station, motor vehicle sales facility, restaurant or junk yard.
- (15) **RETIREMENT HOME:** A residential building or complex containing multi-family dwelling designed for and principally occupied by senior citizens. Such a facility may include a common dining and recreation area, but typically excludes institutional care such as medical or nursing services.
- (16) **RIGHT-OF-WAY:** A legally defined right of access.
- (17) **ROAD:** Any public or private right-of-way serving four or more lots, which is designed and intended for use by motor vehicles. The term includes the entire right-of-way. S

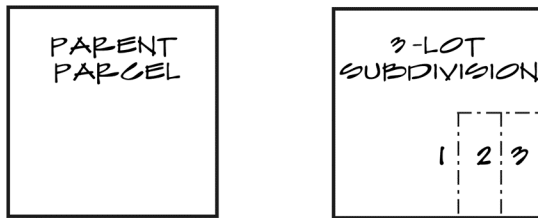
- (18) **SANITARY LANDFILL:** Land used for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.
- (19) **SEASONAL DWELLING UNIT/ CAMP:** A dwelling unit which is not used as a primary single family residence and which receives limited intermittent use on a seasonal basis for no more than six consecutive months.
- (20) **SENDING AREA:** Land from which development rights is removed for the purpose of transferring those rights to a receiving area.
- (21) **SETBACK:** Distance back from neighboring property line or from road, or from public waters, within which no structure or development shall take place unless otherwise approved through Conditional Use Review, Site Plan Review, Waivers or Variance (see Diagram 7).
- (22) **SHORELINE IMPROVEMENTS:** Development along the shoreline such as construction or installation of steps, walkways, docks, walls or other modification of the natural shoreline of properties fronting on Lake Champlain or major creeks and rivers.
- (23) **SIGN:** Any device, structure, building or part thereof, for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.
- (24) **SITE COVERAGE:** The total area of a property covered by structures, drives, parking areas, walkways, patios, pools, decks, or any surface impervious to water, except for public utility structures.
- (25) **SILVICULTURAL PRACTICES:** This bylaw shall not regulate accepted silvicultural practices as defined by the commissioner of forests, parks and recreation under 10 VSA 1021 (f) and 10 VSA 1259(f) and 6 VSA 4810.
- (26) **SOLAR COLLECTOR:** A device or structure, combination or part thereof, that transforms direct solar energy into thermal, chemical, or electrical energy.
- (27) **SOLAR ENERGY SYSTEM:** A complete design or assembly consisting of a solar energy collector, an energy storage facility, where used, and components for the distribution of transformed energy, to the extent they cannot be used jointly with a conventional energy system. Passive solar energy systems, those which use natural or architectural components to collect and store or utilize solar energy without using external mechanical power, are included in this definition.
- (28) **STABLE:** A facility where less than four (4) horses are kept for remuneration, hire, sale or for private use. A stable shall be considered an accessory use to a single family home. Stables housing 4 or more horses are considered agricultural operations and should be treated as exempt agricultural uses.

Diagram 7: Setbacks and Yards



- (29) **STATE PARK:** An area of land with recreational facilities owned and operated by the State of Vermont for use by the public.
- (30) **STORAGE TRAILER:** A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation. This includes a storage body mounted or intended to be mounted on a truck or trailer chassis.
- (31) **STREET:** Public or private way for vehicular traffic, which affords the principal means of access to abutting properties. The word street includes the word road.
- (32) **STREET LINE:** Right-of-way line of a street, public or private, as dedicated by a deed or other proper instrument of record. Where the width of the street is not established, the street line shall be considered to be 30 feet from the centerline of the street.
- (33) **STRUCTURE:** An assembly of materials for occupancy or use, whether permanent or temporary, including, but not limited to, a building, shed, garage, manufactured home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm, deck, porch, swimming pool, microwave dish antenna. Structures do not include sidewalks, driveways, roads, or non-commercial parking lots, and fences less than four (4) feet in height and fences which can be seen through (non-opaque).

Diagram 8: Number of Lots



The number of lots is counted as the total number resulting after the subdivision including the remaining portion of the parent parcel.

(34) **SUBDIVISION:** - The division of a parcel of land with or without roads/streets, into 2 or more lots, plots, parcels, or other legal division of land for the purpose of transfer of ownership, or development, long-term lease, or sale. Subdivision includes re-subdivision, and the adjustment of boundaries between 2 or more lots, plots parcels or other legal division of land.

(35) **SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction or improvement of a structure, the cost of which equals or

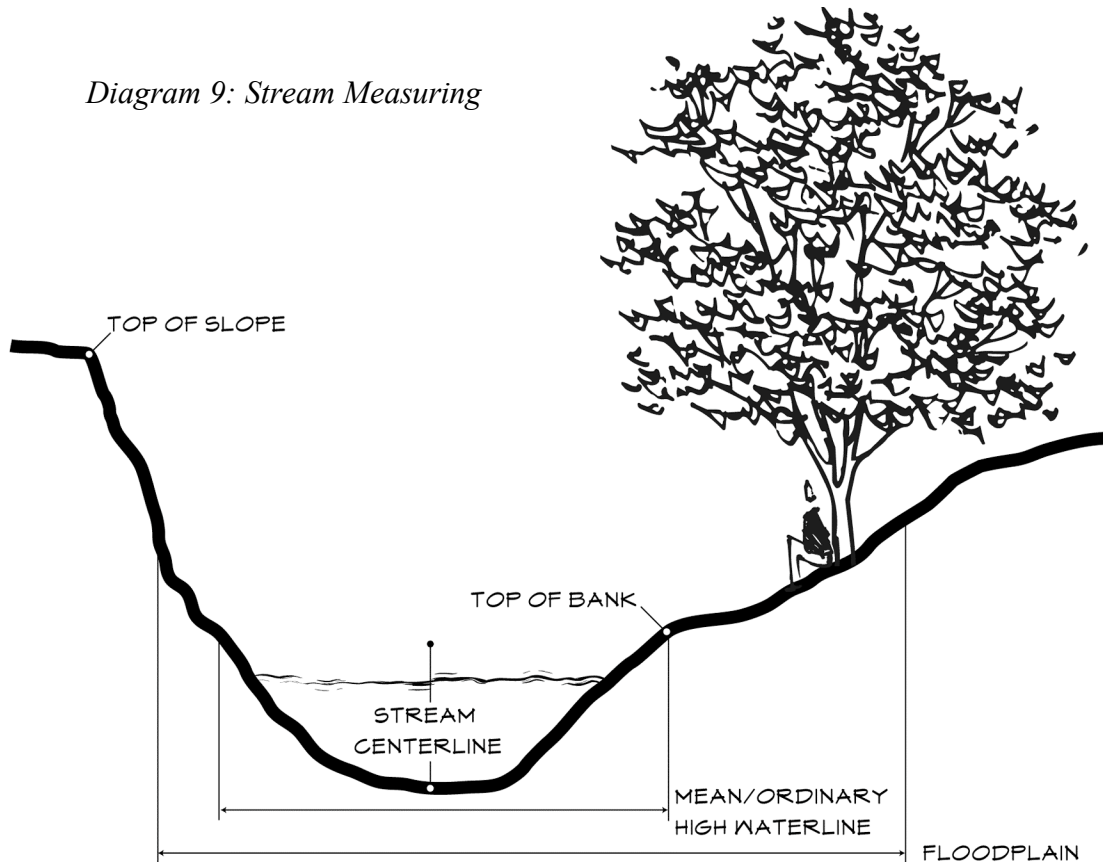
exceeds 50% of the Town’s equalized listed value of the structure either: a) before the improvement or repair is started; or b) if the structure has been damaged and is being restored, before the damage occurred. The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety codes specifications that are solely necessary to ensure safe living conditions.

(36) **SUBSTANTIALLY COMMENCED:** An approved permit shall be considered to have “substantially commenced” where the footings of a building have been constructed, AND approved in writing by the Zoning Administrator following a site inspection by the Zoning Administrator.

(S) T

- (1) **TOP OF BANK:** The elevation established as the mean high water mark for a stream or water body.
- (2) **TOP OF SLOPE:** Where a shoreline or stream bank is characterized by steep slopes, the top of slope shall be considered the elevation at which there is a significant change in the average grade or where the grade is gradual, the elevation at which the average grade is less than a 60% slope.

Diagram 9: Stream Measuring



- (3) **TOWN BEACH:** An area of land owned by the Town of Ferrisburgh open and accessible to the public for recreational use.
- (4) **TOWN FOREST:** An area of land owned by the Town of Ferrisburgh, and managed and administered by the Conservation Commission.
- (5) **TRANSFER OF DEVELOPMENT RIGHTS (TDR):** The removal of the right to develop or build, expressed in units per acre, or coverage per acre, from land in one zoning district to another zoning district or to another town, where such transfer is permitted.

(T) U

- (1) **USE:** The specific purpose for which land or a building is designated, arranged, or intended; or for which it is or may be occupied or maintained.

(U) V

- (1) **VARIANCE:** An appeal requesting a departure from these regulations, which is granted or denied by the Zoning Board of Adjustment. All the conditions specified in 24 VSA § 4469 must exist in order for a variance to be granted.
- (2) **VETERINARY CLINIC / ANIMAL HOSPITAL:** A building or premises for the medical or surgical treatment of animals.

(V) W

- (1) **WAIVER:** A reduction in dimensional requirements of zoning by the zoning board or planning commission based on specific criteria. 24 VSA § 4414(8).
- (2) **WAREHOUSE:** A structure or part thereof for storing goods, wares, materials or merchandise. A warehouse may include a wholesale establishment, discount house, bulk storage and bulk sales outlet. Does not include gasoline, fuel, chemical, hazardous or flammable fuel storage tanks.
- (3) **WETLANDS:** Wetlands shall mean any of those areas of the state that are inundated by surface or ground water with a frequency sufficient to support significant vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth or reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, river or lake overflows, mud flats, bog and ponds, but excluding such areas as grow food or crops in connection with farming activities. The boundary of Lake Champlain Wetlands has been defined at 105 feet above mean sea level. See Vermont Wetland Rules (January 1,2002), and 34 VSA § 4303.
- (4) **WETLANDS, SIGNIFICANT:** Shall mean any wetland determined by the Water Resources Board to be a Class One I or Class Two II Wetland.
- (5) **WILDLIFE REFUGE:** An area of land specifically set aside and under public, non-profit or private ownership or control and used for the protection or conservation of animal or bird species and their habitats.
- (6) **WIND ENERGY CONVERSION SYSTEM:** A device that converts wind energy to mechanical or electrical energy.

(W) X

(X) Y

- (1) **YARD:** Space on a lot not occupied with a building or structure.
- (2) **YARD, FRONT:** Area between the center of the street and the building front line. A comer lot has two front yards.
- (3) **YARD, SIDE:** Area between a side lot line and building sideline.

(Y) Z

- (1) **ZONING PERMIT:** A document signed by the Zoning Administrator, as required by these Regulations, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building, that acknowledges that such use, structure or building, as proposed, will comply with the provisions of these Regulations or authorized variance there from.

Section II.03. Flood Hazard Area Definitions

(A) The National Flood Insurance Program definitions as contained in 44 CFR Section 59.1 are hereby adopted by reference and shall be used to interpret and enforce these regulations. The definitions of some common terms are included below:

- (1) **ADMINISTRATOR:** The Federal Emergency Management Administrator. The Federal Insurance Administrator, located at; Federal Emergent Management Agency (FEMA), Federal Insurance

Administration, J.W. McCormack Post Office and Court House Building, Room 442, Boston, MA 02109, Phone: (617) 223-9561.

- (2) **AREA OF SPECIAL FLOOD HAZARD:** The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area includes all A zone designations on the FIRM, which is defined on the map as 102 feet elevation above mean sea level; or, in the absence of the FIRM, on the FHBM. It does not include Zones Band C.
- (3) **BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year.
- (4) **DEVELOPMENT:** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or land fill, and any change in the use of any building or other structure, on land, or extension of use of land.
- (5) **FEMA:** Federal Emergency Management Agency
- (6) **FHBM:** Flood Hazard Boundary Map. An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FHBM is issued before the FEMA has conducted a flood study of the community.
- (7) **FIRM:** Flood Insurance Rate Map. An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community, a FIRM is issued after the FEMA has conducted a flood study of the community. This map is available in the Town Clerk's Office.
- (8) **FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (9) **FLOODPROOFED or FLOODPROOFING:** Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (10) **MOBILE HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.
- (11) **MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION:** A parcel of land divided into two or more manufactured home lots for rent or sale.
- (12) **NEW CONSTRUCTION:** Structures commenced on or after the effective date of this ordinance.
- (13) **STATE COORDINATING AGENCY:** The agency that will assist with implementation of the National Flood Insurance Program (NFIP): Department of Environmental Conservation, Water Quality Division, 103 Main Street, Waterbury, VT 05671, Phone: (802) 244-6951.
- (14) **STRUCTURE:** An assembly of materials for occupancy or use, including but not limited to a building, manufactured home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.
- (15) **START OF CONSTRUCTION:** See FEMA definition in Section 1909.1 of the current National Flood Insurance program rules and regulations.

- (16) **SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before damage has occurred. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section II.04. Telecommunications Definitions

- (A) In addition to those definitions found in Section 2.2, the following terms, for the purposes of development associated with telecommunications shall have the following definitions:

- (1) **ADEQUATE CAPACITY:** Capacity is considered to be adequate if the grade of service is p.05 or better for at least 50 percent of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).
- (2) **ADEQUATE COVERAGE:** Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment like Ferrisburgh, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.
- (3) **AFFILIATE:** When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, and agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.
- (4) **ANTENNA:** A device for transmitting and/or receiving electromagnetic waves that is attached to a tower or other structure.
- (5) **ANTENNA HEIGHT:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in determining the grade for calculating the antenna height.
- (6) **ANTENNA SUPPORT STRUCTURE:** Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.
- (7) **APPLICANT:** A person who applies for a telecommunications facility siting. An applicant must be the telecommunications provider or its agent of record.
- (8) **AVAILABLE SPACE:** The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

- (9) **BASE STATION:** The primary sending and receiving site in a telecommunications facility network.
- (10) **BLANKET INTERFERENCE ZONE:** The area defined or identified by the FCC as being affected by radio frequency interference.
- (11) **BULLETIN 65:** Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.
- (12) **CELLULAR TELECOMMUNICATIONS:** A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to telecommunication providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.
- (13) **CHANNEL:** The segment of the radiation spectrum to or from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.
- (14) **COLLOCATION:** Locating wireless communications equipment from more than one provider in a single site.
- (15) **COMMON CARRIER:** An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the public at established and stated rates.
- (16) **dBm:** Unit of measure of the power level of an electromagnetic signal at the input of a receiver, given its antenna system gain at a particular frequency, expressed as decibels (dB) above one milliwatt. Signal predictions with this measure are valid at a particular frequency, and ambiguous unless all receivers and antenna combinations are identical.
- (17) **FCC:** Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.
- (18) **FCC 97-303:** A Report and Order that sets new national standards for exposure to radio frequency emissions from FCC-regulated transmitters.
- (19) **FREQUENCY:** The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).
- (20) **GHz:** Gigahertz. One billion hertz.
- (21) **HERTZ:** (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.
- (22) **INTERFERENCE:** An undesirable effect caused by electromagnetic signals. Type 1 interference refers to interference regulated by the FCC and affecting other FCC licensees or other entities over which the FCC has jurisdiction. Type 2 interference refers to electromagnetic disturbances to business, institutional, medical and home electronic equipment.
- (23) **MHz:** Megahertz, or one million hertz.
- (24) **MICROWAVE:** Electromagnetic radiation with frequencies approaching 1,000 MHz, including UHF, extending to infrared frequencies; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.
- (25) **MICROWAVE ANTENNA:** A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice data.

- (26) **MODIFICATION OF AN EXISTING FACILITY:** Any change, or proposed change, in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.
- (27) **MODIFICATION OF AN EXISTING TOWER:** Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.
- (28) **MONITORING:** The measurement, by the use of instruments in the field, of non-ionizing radiation exposure at a site as a whole, or from telecommunications facilities, towers, antennas or repeaters.
- (29) **MONITORING PROTOCOL:** The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from existing and new telecommunications facilities.
- (30) **MONOPOLE:** A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.
- (31) **PERMITTEE:** An applicant and his successors and assigns who is granted a telecommunications tower or facility conditional use permit.
- (32) **RADIAL PLOTS:** Radial plots are the result of drawing equally-spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial. A threshold plot uses a mark to indicate whether that point would be strong enough to provide adequate coverage- i.e., the points meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.
- (33) **REPEATER:** A small receiver/relay transmitter and antenna of relatively low power output designed to provide service at areas that are not able to receive adequate coverage directly from a base or primary station.
- (34) **ROOF AND OR BUILDING MOUNT FACILITY:** A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a structure face.
- (35) **SCENIC VIEW:** A scenic view is a wide angle or panoramic field of sight and may include natural an/or manmade structures, and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway or path. A view may be to a faraway object, such as a mountain, or a nearby object.
- (36) **SITE:** A property or any part or interest thereof, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facility(s) and required landscaping are located.
- (37) **SITE LOCATION:** References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.
- (38) **SPECTRUM:** Relating to any transmissions or reception of electromagnetic waves.

- (39) **STRUCTURALLY ABLE:** The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonably predictable conditions as determined by professional structural engineering analysis.
- (40) **TELECOMMUNICATIONS EQUIPMENT SHELTER:** A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.
- (41) **TELECOMMUNICATIONS FACILITY:** All equipment (including repeaters) with which a telecommunications provider broadcasts and receives the radio frequency waves which carry their services and all locations of said equipment or any part thereof, and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s).
- (42) **TELECOMMUNICATIONS FACILITY SITE:** A property, or any part thereof or interest therein, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facility(s) and where required landscaping are located. It shall meet minimum lot size and regulations for the zone in which it is to be located.
- (43) **TELECOMMUNICATIONS PROVIDER:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.
- (44) **TELECOMMUNICATIONS TOWER:** A guyed, monopole or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electronic communication.
- (45) **TELECOMMUNICATIONS TOWER OR FACILITY CONDITIONAL USE PERMIT:** An official action taken pursuant to the Ferrisburgh Zoning Bylaws, as amended, which sets forth the land use rights and obligations extended by Ferrisburgh to an applicant to own, construct, maintain and operate a telecommunications facility or tower or antenna support structure within the boundaries of Ferrisburgh.
- (46) **TEMPORARY WIRELESS TELECOMMUNICATIONS FACILITIES:** Any tower, pole, antenna, etc. designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.
- (47) **TILED COVERAGE PLOTS:** Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over the area of interest, usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for comparative analysis.
- (48) **TOWER:** A lattice structure or framework, either self-supporting or guyed, or monopole, that is designed to support telecommunications antennas, and/or equipment.
- (49) **VIEW CORRIDOR:** A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus

of the view, the mapped portion of the corridor extends from the viewpoint, and is based on the area where base heights must be limited in order to protect the view.