ZONING AND SUBDIVISION CODE OF ORDINANCES

Town of

St. Johnsbury, Vermont

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Section 101 Enactment, Name, Authority and Effective Area

101.1 This ordinance is enacted pursuant to 24 V.S.A., Chapter 117, sub-chapter 6, §4410 and §4411 which constitute and are set forth in the text hereof and the official maps hereby adopted. It shall be known and cited as the Town of St. Johnsbury Zoning and Subdivision Ordinance and shall be effective for all land in the Town of St. Johnsbury, Vermont.

101.2 It is the intent of these Town of St Johnsbury Zoning and Subdivision Ordinance to provide for orderly community growth; to promote the preservation and conservation of the natural environment in concert with the comprehensive town plan and to further each of the purposes established in 24 V.S.A. §4302, which are incorporated herein by reference.

101.3 These Town of St Johnsbury Zoning and Subdivision Ordinance:

a) Implement the goals, policies, and recommendations in the current municipal plan;

b) Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;

c) Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair stream equilibrium, flood plain services, or the stream corridor,

d) Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of St. Johnsbury, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.[1]

Section 102 Planning Commission [2]

102.1 Establishment. A planning commission is created pursuant to 24 V.S.A. § 4321.

102.2 Composition and Terms. The planning commission shall consist of seven (7) members who shall be residents of the town. Planning commission members shall be appointed by the select board for three (3) year terms ending on the last day of June. Vacancies may be filled for unexpired terms by the select board.

102.3 Organization. At its first meeting in July of each year, the planning commission shall, by majority vote of its members (excluding vacant seats), elect one (1) of its members to serve as chairperson, one (1) member to serve as vice-chairperson, and one (1) member to serve as clerk.

102.4 Powers and Duties. The planning commission shall exercise all duties of planning commissions specified in 24 V.S.A., Chapter 117, as well as any duties specified in the town charter or appropriately requested of it by the select board.

[1] New 2014: NFIP required statement of purpose
[2] New 2014; No comparable provision.

Section 103 Administrative Officer[3]

103.1 Establishment. An administrative officer shall be appointed pursuant to 24 V.S.A. § 4448.

103.2 The administrative officer shall administer this ordinance literally and shall not have the power to permit any land development that is not in conformance with this ordinance.[4]

103.3 Application Requirements. The administrative officer may waive any application filing requirements or require additional information or materials to be filed as reasonably necessary to consider any application. If the administrative officer reasonably determines that an application is incomplete, the administrative officer shall provide the applicant with a written list of the required additional information. If, instead of supplying the additional information, the applicant requests the administrative officer to deny the permit application, the administrative officer shall do so.[5]

103.4 Action by the Administrative Officer. Except as provided in this ordinance for land development in areas identified by this ordinance as areas of special flood hazard, the administrative officer shall, within thirty (30) days of receiving a complete application, either issue or deny the requested permit or refer the application to the DRB. If denied, the administrative officer shall so notify the applicant in writing, stating the reasons therefore. 24 V.S.A. §4448(d).

103.5 Notice of Permit Issuance. Each permit issued shall contain a statement of the period of time within which an appeal may be taken and shall require posting of a notice of permit on a form prescribed by the town within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal has passed. Within three (3) days following the issuance of a permit, the administrative officer shall post a copy of the permit in at least one (1) public place in the town until the expiration of the applicable appeal period.[6]

103.6 Effective Date of Permits. No permit shall take effect until the time for appeal has passed, or in the event that a notice of appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the DRB is complete and the time for taking an appeal to the environmental division has passed without an appeal being taken. If an appeal is taken to the environmental division, the permit shall not take effect until the environmental division rules in accordance with 10 V.S.A. §8504 on whether to issue a stay, or until the expiration of fifteen (15) days from such appeal, whichever comes first.[7]

103.7 Decisions. The administrative officer may also issue decisions concerning the application of the provisions of this Ordinance to the proposed activity or construction, such as a determination that a project does not require a zoning permit or is located in a particular zoning

[3] Comparable to 1973 Section 801.
[4] Comparable to 1973 Section 802.1.
[5] Expanded 2014 from 1973 Sections 802.2 and 802.3.
[6] Added 2014. *See* 24 V.S.A. § 4449(b) and 4449(c).
[7] Added 2014. *See* 24 V.S.A. §4449(a)(3).

district. Each decision issued by the administrative officer shall contain a statement of the period of time within which an appeal may be taken. Within three (3) days following the issuance of a decision, the administrative officer shall post a copy of the decision in at least one (1) public place in the town until the expiration of the applicable appeal period.

103.8 Appeals. Pursuant to 24 V.S.A. §§ 4465(a) and (b) and 4466, an interested person may appeal within fifteen (15) days to the DRB any decisions or act taken by the administrative officer.[8]

Note: 24 V.S.A. § 4465(a) and (b) and 4466 provide in relevant part as follows:

§ 4465. Appeals of decisions of the administrative officer

A. An interested person may appeal any decision or act taken by the administrative officer in any municipality by filing a notice of appeal with the secretary of the development review board of that municipality or with the clerk of that municipality if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the administrative officer.

B. For the purposes of this chapter, an interested person means any one of the following:

(1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

(3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.

(4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This

[8] Added 2014

petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

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

. . .

§ 4466. Notice of appeal

A notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

103.9 Filing and Recording of Municipal Land Use Permits. Within thirty (30) days after a zoning permit is no longer subject to appeal, the administrative officer shall deliver the original or a legible copy of the municipal zoning permit or a notice of zoning permit generally in the form set forth in 24 VSA §1154(c) to the town clerk for recording as provided in 24 VSA §1154(a); and file a copy of that municipal land use permit or notice of zoning permit in the offices of the town in a location where all town land use permits shall be kept and deliver a copy of such permit to the town assessor.[9]

103.10 Zoning Permit. The administrative officer may issue a zoning permit amendment if and only if the proposed change does not adversely affect the project's compliance under any of the applicable review criteria. Otherwise, the administrative officer shall consider a proposed change as a new application for a zoning permit.

Section 104 Development Review Board

104.1 Establishment. A development review board ("DRB") is created pursuant to 24 V.S.A. § 4460.[10]

104.2 Composition and Terms. The DRB shall consist of seven (7) members and two (2) alternates who shall be residents of the town. DRB members and alternate members shall be appointed by the select board for three (3) year terms ending on the last day of June. In years divisible by three (3), three (3) members shall be appointed. In all other years, two (2) members and one (1) alternate shall be appointed. Alternates may be assigned to serve when one (1) or more members of the DRB are disqualified or are otherwise unable to serve. Vacancies shall be filled by the select board for the unexpired terms. All members shall continue to serve until a successor is appointed.[11]

[9] New 2014. *See* 24 V.S.A. § 4449(c).
[10] Comparable to 1973 Section 805.
[11] Comparable to 1973 Section 805. Expanded to add allowance for alternates.

104.3 Organization. At its first meeting in July of each year, the DRB shall, by majority vote of its members (excluding vacant seats), elect one (1) of its members to serve as chairperson, one (1) member to serve as vice-chairperson, and one (1) member to serve as clerk.

104.4 Public Notice. Public hearings that require public notice shall be advertised not less than fifteen (15) days prior to the date of the public hearing by all of the following means:

a) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town;

b) Posting of the same information in three (3) or more public places within the town in conformance with location requirements of 1 V.S.A. § 312(c)(2), including in or near the town clerk's office;

c) Written notification to the applicant and to owners of record 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 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.

d) Posting a sign obtained from the administrative officer on the property. The sign shall include the date, time, place and purpose of the public hearing, shall be posted in a location visible to the public from a public right-of-way, and shall be removed within two (2) days of the close of the public hearing.[12]

104.5 Use of Alternate Members. When a DRB member is unable to hear a particular matter, an alternate shall be designated by the chair to participate in the consideration of that matter. Alternates may also be requested by the chair to temporarily replace a member if the member is not able to attend meetings on a long-term basis.

104.6 Evidence and Testimony. The DRB, in connection with any of its proceedings, may examine, or cause to be examined, any property, maps, books or records bearing upon the matters considered in such proceeding, may require the attendance of any person having knowledge of the premises, may take testimony and require proof material for its information, and may administer oaths or take acknowledgment in respect of such matters.[13]

104.7 Technical Assistance.[13]

a) In accordance with 24 VSA §4407(17), the DRB may request expert consultation with respect to its review of any application for land development. The applicant shall be required to pay to the town the estimated cost for such services prior to the completion of the DRB's review.

[12] a) -c) Comparable to 1973 Section 806; d) added 2014 as required by 24 V.S.A. § 4464(a)(1)(B).
[13] Added 2014

b) Funds received from the applicant by the town pursuant to this section shall be held in a separate account. The sum may be used for the payment of consultants hired by the town to assist the DRB in reviewing a project. Any balance remaining no later six (6) months after final action on the application by the DRB shall be returned to the applicant.

104.8 Ex Parte Communication. When operating in a quasi-judicial capacity, no DRB member shall communicate, directly or indirectly, with any interested persons or their representatives, except during properly noticed DRB hearings.

104.9 Decisions.

a) The DRB may recess its proceedings on any application, pending submission of additional information. It shall close the evidence promptly after all parties have submitted the requested information. It shall then adjourn the hearing and issue a decision within forty-five (45) days after the adjournment of the hearing. Decisions shall be issued in writing and shall include a statement of the factual basis on which the DRB has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual basis and conclusions relating to the review standards are provided in conformance with this subsection.

b) In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as the DRB deems reasonably necessary to implement the purposes of 24 V.S.A., Chapter 117, this ordinance and the municipal development plan then in effect.[14]

c) Within the period set forth in subdivision (a) of this subsection, any decision shall be sent by certified mail to the applicant and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy of the decision shall be filed with the administrative officer. *See* § 4464(b)(3).

104.10 Appeals. An interested person may appeal a decision of the DRB to the environmental division of the Vermont superior court pursuant to 24 V.S.A. § 4471.[15]

Note: See Note after Section 103.8 for a definition of interested person.

Section 105 Design Advisory Committee

To advise the DRB, the select board shall appoint an advisory commission on design review composed of eight (8) persons having a knowledge of and interest in design, architecture, landscape design, historic development and/or the community. Members of the advisory committee shall have such term of office, and such procedural rules, as the select board shall determine.[16]

[14] Comparable to 1973 Section 205.2.3.
[15] New 2014; No comparable provision.
[16] Adapted from 1973 Section 402.3.

Section 106 Fees[17]

The fees for all services provided under this ordinance, including fees for permit review and issuance, hearing notice, and review, and permit recording shall be as set from time to time by the select board and published on a schedule of fees. No action shall be taken on any matter before the payment of applicable fees.

Section 107 Severability[18]

If any article, part, section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining articles, parts, sections, paragraphs, sentences, clauses or phrases of this ordinance.

[17] Comparable to 1973 Sections 801 and 807.
[18] Comparable to 1973 Section 904.

ARTICLE II Administration and Enforcement

Section 201 Use and Development of Land[19]

Except as otherwise provided in this ordinance, no person may use or occupy any land or buildings or authorize or permit the use or occupancy of land or buildings under his or her control except in accordance with the applicable provisions of this ordinance.

Section 202 Zoning Permits

202.1 Permits Required for Land Development. Unless specifically exempted or to the extent limited by this ordinance or applicable statute, no land development may be commenced without a zoning permit theretofore issued by the administrative officer.

202.2 Exempt Activities.[20] Except as otherwise provided by Section 450 Flood Hazard Regulations, a zoning permit shall not be required for the following activities:

a) Accepted agricultural practices and accepted management practices for silviculture, in accordance with 24 V.S.A. § 4413(d).

b) Power generation and transmission facilities that are regulated under 30 V.S.A. § 248 by the Vermont public service board.

c) Hunting, fishing, and trapping as specified under 24 V.S.A § 2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as recreational facilities.

d) Normal maintenance and repair of an existing structure that does not result in exterior alterations or expansion or a change of use.

e) Interior alterations or repairs to a structure that do not alter or expand the exterior of the structure or result in a different or expanded use.

f) Exterior alterations to structures that are not located within designated design review districts and that do not result in any change to the footprint or height of the structure or a different or expanded use.

g) Minor grading and excavation associated with road and driveway maintenance, and lawn and yard maintenance, which is otherwise incidental to an approved use.

h) Outdoor recreational trails that do not require the installation of structures or parking areas.

[19] New 2014; No comparable section.
[20] 2014 Replaces 1973 Section 301.8.

i) Small accessory structures associated with residential uses which are less than one hundred (100) square feet of floor area, less than ten (10) feet in height with a flat roof or less than twelve (12) feet in height with a peaked roof, and are not located within required setback areas.

j) Garage sales, yard sales, auctions, or similar activities that do not exceed five (5) consecutive days, nor more than twelve (12) days in any calendar year.

k) Road, sidewalk, bridge, infrastructure, and utility improvements and maintenance, and related appurtenances within existing public rights-of-way.

l) Except to the extent the bylaws protect historic landmarks and structures listed on the site or national register of historic places; the largest face of the antenna is not more than 15 square feet; and, the antenna and mast supporting it does not extend more than 12 feet about the roof of that portion of the building to which the mast is attached, the following types of antennas or dishes, which are placed on properties for the owners' or occupants' exclusive use and control:

i. A "dish" antenna one (1) meter (39.37 inches) or less in diameter designed to receive direct broadcast satellite television service or to receive and transmit fixed wireless signals via satellite;

ii. An antenna one (1) meter in diameter or less designed to receive wireless cable or to receive or transmit fixed wireless signals other than by satellite;

iii. Commercially-available analog and digital television antennas;

iv. Ground or building mounted radio or television antenna, or satellite dishes not exceeding one (1) meter in diameter, which are intended solely for residential use, and which do not, as mounted, exceed forty (40) feet in height above the lowest grade at ground level;

v. Single use local business radio dispatch equipment;

vi. Citizens band radio antennas operated by federally licensed amateur (ham) radio operators which do not exceed a height of fifty (50) feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located; and

vii. Police, fire ambulance, and other emergency dispatch telecommunications facilities.[21]

m) The addition of floor space at any residence without changing (1) the land surface area covered or occupied by a structure and (2) the number of dwelling units in any structure.

[21] New 2014; No comparable section.

202.3 Applications. Applications for zoning permits shall be made to the administrative officer on forms provided by the town for that purpose. A zoning permit application shall include the following:

a) Completed zoning application form.

b) Completed application form(s) for other approval(s) applicable to the application and supporting information.

c) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin.[22]

202.4 Duration of Zoning Permits.

a) Zoning permits shall expire three (3) years after the date of issuance by the administrative officer. An approved project must be completed prior to the expiration of the permit, unless a later completion date has been approved during the initial approval process. Once a permit has expired, a new permit must be obtained prior to initiating or recommencing the project. Reestablishment of an expired permit is considered a new application and shall be subject to the review process in effect at the time of reestablishment. If construction commences, the failure to complete construction in accordance with the zoning permit within three (3) years after a zoning permit is issued or as otherwise provided during the initial approval process shall constitute a violation of the zoning permit subject to enforcement action by the administrative officer.[23]

b) Prior to expiration of a zoning permit, and upon written request from the applicant, the administrative officer may extend, for good cause, a zoning permit for a period not to exceed one (1) year.[24]

c) Abandonment of Structures - Within one (1) year after work on an excavation for a building has begun or within six (6) months after a permanent or temporary building or structure has been destroyed, demolished, or abandoned, all structural materials shall be removed from the site and the site shall be restored to a normal grade and planted with grass or other suitable vegetation.[25] The DRB, after public notice and hearing, may extend these deadlines for good cause shown.

[22] New 2014: Vermont Model Flood Hazard Regulations, v.4 in Section VIII.A.2
[23] New 2014.
[24] New 2014.
[25] Expanded in 2014 from 1973 Section 802.3 and Section 312

Section 203 Site Plan Review

203.1 Prior to the issuance of a zoning permit, the applicant shall deliver to the administrative officer evidence of site plan approval including the approval of waivers as applicable by the DRB, after public notice and hearing. Notwithstanding the foregoing, and pursuant to Section 450 Flood Hazard Areas, site plan approval by the DRB shall not be required for the following land developments unless a waiver of any requirement herein is requested for such land development:

a) One (1) family and two (2) family dwellings;

b) Land development where the proposed use or structure is reasonably determined by the DRB without a public hearing not to affect the adequacy of (1) traffic access, (2) circulation and parking, (3) landscaping and screening, (4) utilization of renewable energy resources; and (5) adequacy of storm water drainage and run off including the absence of flooding and ponding.

c) Any land development otherwise exempted from site plan approval.[26]

203.2 Application. An applicant seeking site plan approval shall submit two (2) sets of site plans, surveys and supporting data to the DRB which shall include the following information presented in drawn form and accompanied by written text:

a) Name and address of the owner of record of the land in question and of all adjoining properties including properties that would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way.

b) Survey of the land in question showing existing features, including contours, structures, large trees, streets, utility and other easements of record, rights of way, and land use and deed restrictions, name and address of person or persons preparing the survey, the scale of survey, north point and date.

c) Site plan showing proposed structures, location and elevations thereof and use to be made of other land subject to application; streets, driveways, traffic circulation, parking and loading spaces, pedestrian walks and snow storage areas.

d) A table listing applicable area, density, dimensional, parking requirements and describing the extent of compliance with each such requirement.[27]

e) Evidence demonstrating compliance with the parking, outdoor lighting and landscaping standards of this ordinance.

203.3 Review Criteria. In considering whether to approve or disapprove any site plan submitted pursuant to this section, or to grant any waiver allowed by this ordinance, the DRB shall consider, and may impose appropriate conditions and safeguards with respect to a project's

[26] Expanded 2014 from 1973 Section 401.
[27] Expanded 2014 from 1973 Section 401.1.

compliance with the provisions of this ordinance, the adequacy of traffic access, circulation and parking, adequacy of pedestrian circulation, landscaping and screening, exterior lighting, snow storage areas, utilization of renewable energy resources, storm water drainage and run-off, including freedom from flooding and ponding.

203.4 Duration of Site Plan Approval. Site plan approval shall expire one (1) year after such approval is no longer subject to appeal.[28] At the request of the applicant, the DRB, after public notice and a hearing, may extend this deadline to the extent that the applicant is diligently pursuing any Act 250 permit that is required for the proposed land development. In the event the proposed land development is subject to Act 250 review, site plan approval shall expire one (1) year after the required Act 250 approval is no longer subject to appeal.

Section 204 Permitted and Conditional Use Review

204.1 Any use designated as a "Permitted Use" in the table relating to a particular zoning district is a use that may be commenced, enlarged or altered, in such district provided that the applicable provisions of these zoning by-laws are met. Unless a variance or other special action by the Development Review Board must first be obtained, the necessary zoning permit may be issued by the administrative officer, pursuant to Section 103 of this by-law.

204.2 If a use is permitted only upon conditional use approval, prior to the issuance of a zoning permit, the applicant shall deliver to the administrative officer evidence of conditional use approval by the DRB after public hearing and notice.[29]

204.3 Application. In connection with conditional use approval, in addition to the materials required for site plan review, an applicant shall submit two (2) copies of elevations for any structure that is proposed.

204.4.1 Conditional Use Review Criteria. A conditional use may be approved, with appropriate conditions or without, only if the DRB determines that the proposed use complies with any other conditional use standards adopted by this ordinance and does not adversely affect the following:

a) the capacity of existing or planned community facilities;

b) the character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards in the town plan;

c) traffic on roads and highways in the vicinity;

d) the zoning and subdivision regulations in effect; and

e) the utilization of renewable energy resources.[30]

[28] New 2014; No comparable 1973 section.
[29] New 2014; No comparable 1973section.
[30] Comparable to 1973 Section 205.2.1.

204.4.2 In determining whether a proposed conditional use will adversely affect the character of the area involved, Development Review Board shall be required to give substantial weight to the views of any person who would be classified as an "interested person" by 24 V.S.A. §4465(b) with respect to such proposed use.

204.4.3 In permitting a conditional use, the Development Review Board may impose in addition to the requirements and standards expressly specified by this by-law, 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 the following:

a) Increasing the required lot size or yard dimensions in order to protect adjacent properties;

b) Limiting the building coverage or height of buildings or modification in construction materials because of obstruction to view, reduction of light and air, or potential for increased radiant heat to adjacent property;

c) Controlling the location and number of vehicular access points to the property;

d) Increasing the street width;

e) Increasing the number of off-street parking or loading spaces required;

f) Limiting the number, location, and size of signs;

g) Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;

h) Specifying a specific time limit for construction, alteration, or enlargement to begin for a structure to house a conditional use; and

i) Requiring that any future enlargement or alteration of the use be reviewed by the Development Review Board to permit the specifying of new conditions.

204.4.4 As a condition of the grant of a conditional use, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Act and these zoning by-laws.

204.4.5 A change in use, expansion or contraction of land, area, or alteration of structures or uses which are designated as a conditional use within the district in which they are located and are existing therein prior to the effective date of this by-law shall, subsequent to said effective date, conform to all requirements herein pertaining to conditional uses.

204.4.6 In the case of any use designated as a "Conditional Use" because it does not meet the minimum set back requirements set forth in the Table relating to a particular district a zoning permit may be issued without a variance if the requirements of this Section are satisfied and if there exists a setback of not less than five (5) feet; except that in the Mixed Use District designated as such on the Zoning Map entitled "St. Johnsbury Zoning Map", the Development Review Board may eliminate the setback requirements entirely.

204.5 Duration of Conditional Use Approval. The necessary zoning permit for a conditional use may be issued by the administrative officer, pursuant to Section 103 of this by-law any time within one (1) year of the granting of the conditional use subject to any applicable requirement for first obtaining a variance or other special action by the Development Review Board. If the zoning permit is not issued within one (1) year, the conditional use permit shall become null and void and re-application shall be required prior to the issuance of a zoning permit.[31]

Section 205 Design Control

205.1 Prior to the issuance of a zoning permit for any land development located within the design control district, the applicant shall deliver to the administrative officer evidence of design control approval by the DRB after public notice and hearing.[32]

205.2 Application. In addition to applicable fees and the materials required for site plan review, an applicant seeking design review approval shall submit the following: two (2) copies of proposed elevations and a description of the materials to be used on the exterior of any structure.[33]

205.3 Review Criteria. The DRB shall consider and may impose conditions with respect to the following:

a) Preservation or reconstruction of historic style and intended use.

b) Harmony of exterior design with other properties in the neighborhood.

c) Compatibility of the exterior materials and color schemes to be used with other properties in the neighborhood.

d) Whether landscaping is maintained in the entire required front setback area.

e) Compatibility of the proposed landscaping and screening with other properties in the neighborhood.

f) Location and appearance of all utilities, including lighting.

g) Compatibility with uses of neighboring properties.[34]

205.4 Duration of Design Review Approval. Design review approval shall expire one (1) year after the date such approval is no longer subject to appeal.[35]

[31] 2014 Adapted from 1973 section 401.3.
[32] New 2014; No comparable 1973 section.
[33] 2014 Adapted from 1973 Section 402.4.
[34] 2014 Adapted from 1973 Section 402.2(a)-(g).
[35] New 2014

Section 206 Variances

206.1 Prior to the issuance of a zoning permit for any project requiring the issuance of a variance, the applicant shall deliver to the administrative officer evidence of the DRB's approval of the variance after public notice and hearing.[36]

206.2 Application. In addition to applicable fees and the materials required for site plan review, an applicant seeking a variance shall submit a commentary demonstrating satisfaction of each criterion for the issuance of a variance.

206.3 Notice. In addition to all other applicable requirements, written notification shall be given to the Vermont Secretary of Transportation of any application seeking a variance of a required setback from a State highway.

206.4 Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.[37]

206.5 Review Criteria. The DRB shall review a variance application in accordance with 24 V.S.A. § 4469.[38]

> *Note: 24 V.S.A. § 4469 provides that for any structure that is not primarily a renewable energy resource structure the DRB shall grant variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its decision.*
>
> *§ 4469. Appeal; variances*
>
> *(a) On an appeal under § 4465 or § 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is not primarily a renewable energy resource structure, the board of adjustment or the development review board or the environmental division created under 4 V.S.A. chapter 27 shall grant variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its decision:*
>
> *(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*

[36] New 2014; No comparable 1973 section.
[37] New 2014: Required for NFIP, 44 CFR Section 60.6 (a) (5)
[38] New 2014; Adapted from 1973 Section 401.3

the provisions of the bylaw 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 the bylaw, 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 the bylaw and from the plan.

(b) 24 V.S.A. § 4469 further provides that for any structure that is primarily a renewable energy resource structure, the DRB shall grant variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its decision:

(1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.

(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 the bylaws and from the plan.

(c) In rendering a decision in favor of an applicant under this Section, the DRB may attach such conditions to variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this ordinance and the town plan.

206.6 Duration of Review Approval. A variance shall expire one (1) year after the date on which its approval is no longer subject to appeal.[39]

Section 207 Certificates of Zoning Compliance[40]

207.1 It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof to the extent it is created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of this ordinance, until a certificate of zoning compliance is issued therefore by the administrative officer stating that the use of the structure or land conforms to the requirements of this ordinance and conditions of the permit.

207.2 Applications for a certificate of zoning compliance shall be made to the administrative officer on forms provided by the town for that purpose.

207.3 The administrative officer shall issue a certificate of zoning compliance if the use of the structure or land conforms to the requirements of the zoning permit and this ordinance. The administrative officer may condition the issuance of a certificate of zoning compliance on the completion of certain requirements within a specified time.

Section 208 Enforcement[41]

208.1 Entrance Upon Premises. The administrative officer may enter upon any land in the town to make examinations and surveys pursuant to 24 V.S.A. § 4325(9). When entrance upon property is refused or denied, the administrative officer may seek a warrant for the purposes of conducting an examination of the premises. A warrant shall only be requested on the basis of administrative officer observations, when another municipal official has provided credible information to the administrative officer or upon notification by verified written complaint that a zoning violation allegedly exists.

208.2 Persons Liable. The owner, tenant, or occupant of any structure or land or part thereof who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this ordinance, and any architect, builder, contractor, agent or other person who knowingly participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

[39] 2014 Adapted from 1973 Section 401.3
[40] 2014 Adapted from 1973 Section 803; removed residential exception; clarified that building codes are not in the scope of certification.
[41] 2014Adapted from 1973 Section 804. Adds municipal ticketing authority.

208.3 Civil Offense, Penalties. A violation of this ordinance shall constitute a civil offense. Each day that a violation is continued shall constitute a separate offense. If an alleged violation is determined to exist, a formal notification shall be issued in either of two (2) forms as follows:

a) Municipal civil complaint ticket:
The administrative officer may issue a municipal complaint ticket for zoning violations. The administrative officer shall follow the procedure set forth by the judicial bureau for municipal complaint tickets.

The first offense ticketed for a violation shall be punishable by a fine of one hundred dollars ($100.00), the waiver fee shall be one hundred dollars ($100.00); a second offense ticketed for the same violation shall be punishable by a fine of one hundred and fifty dollars ($150.00), the waiver fee shall be one hundred and fifty dollars ($150.00); a third offense ticketed for the same violation shall be punishable by a fine of two hundred and fifty dollars ($250.00), the waiver fee shall be two hundred and fifty dollars ($250.00). Upon the fourth offense, the town may request that the case be transferred from the judicial bureau to the environmental division, or any other court of competent jurisdiction.

b) Enforcement action:

An enforcement action may be brought for any violation of this ordinance. Pursuant to an enforcement action, any person who violates this ordinance shall be fined not more than the maximum amount authorized by statute for each offense. No action may be brought under this subsection unless the alleged offender has had at least seven (7) days' warning notice by certified mail. An action may be brought without the seven (7) day notice and opportunity to cure if the alleged offender repeats the violation of the ordinance after the seven (7) day notice period and within the next succeeding twelve (12) months. The seven (7) day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation, shall each pay one point five (1.5) times the amount of such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of ordinances shall be paid to the town.

ARTICLE III Zoning Districts[42]

Section 301 Creation, Map and Interpretation

301.1 Zoning districts and a design control overlay are hereby created as depicted on the zoning map entitled "St. Johnsbury Zoning Map," which is incorporated herein by reference.

301.2 Interpretation and Application.[43]

a) The administrative officer shall interpret the location of district boundaries subject to appeal to the DRB as provided in section 103.5 of this ordinance.

b) Where uncertainty exists as to the boundaries of any district shown on the official zoning map, the following rules shall apply:

(i) Where district boundaries appear to approximately follow the center line of highways, roads, alleys, railroads, streams, other bodies of water, civil division lines, land lot lines, property lines or contour lines, such lines or center lines shall be construed to be such boundaries as they existed at the time of the first adoption of the subject boundary; and

(ii) Where district boundaries are indicated as being measured from or being parallel to the center line of highways, roads, alleys, railroads, civil division lines, land lot lines, or property lines, such boundaries shall be construed as being measured from or being parallel thereto and at a distance therefrom as indicated or as determined by the scale shown on the zoning map.

c) Where the common district boundary line between the R-L 1 district and the R-L 2 district intersects with the terminus of a town road, the provisions of the R-L 2 district shall extend beyond the terminus of the town road into the R-L 1 district for a distance which is equal to the width of the R-L 2 district on either side of said town road at the point of intersection.[44]

d) Where a district boundary line divides a lot of record on the effective date of the creation of such boundary line, the landowner may choose to have applied the standards of either district up to thirty (30) feet into the other district.[45]

e) Notwithstanding what is shown on the "St. Johnsbury Zoning Map," the design control district hereby established by the select board and indicated on said map shall encompass and include: all lots a) facing to any extent on Arnold Park, b) facing to any extent Main Street along its entire length between Spruce Street to and including the entire St. Johnsbury Academy property, c) facing, to any extent Fairbanks Drive

[42] 2014 Adapted from 1973 Article II.
[43] 2014 Adapted from 1973 Section 203.
[44] 2014 Same as 1973 Section 303A.
[45] 2014 Adapted from 1973 Section 303.

along its entire length, d) facing to any extent Eastern Avenue along its entire length between Main Street and the right of way of Northern Vermont Railroad (Newport and Richford Railroad); and e) facing to any extent, Railroad Street along its entire length between Federal Street and Maple Street. In the event that any such lot is less than seventy-five (75) feet in depth, any lot to the immediate rear thereof is also included in the district hereby established.[46]

Section 302 Setbacks

302.1 Riverfront. No structure shall be placed and no land shall be excavated, filled, graded or paved within the area designated by this section as riverfront setback from the natural bank of the following rivers and streams: (i) the Passumpsic River; (ii) the Moose River, (iii) the Sleepers River; and (iv) the Houghton Brook/Burrows Brook. The riverfront setback in each zoning district shall be the same as the minimum front setback specified for that zoning district. The DRB may waive some, or all of the riverfront setback requirement after public notice and hearing upon a showing by the applicant that the proposed development adequately provides for (a) appropriate landscaping and screening, (b) an adequate vegetative buffer between the development and the river, (c) erosion control, and (d) control of storm water drainage and run-off.[47]

302.2 Front Setbacks on Narrow Streets. On streets or roads with less than a fifty (50) foot right-of-way front setbacks shall be measured from the center line of the street or road, and twenty-five (25) feet shall be added to the front yard setback requirement.

302.3 Rear and Side Setback Waiver. The DRB may approve, as a conditional use, a reduced rear or side setback.

302.4 Corner Lots. For any lot abutting more than one (1) street for more than the minimum front setback, front setbacks shall be measured from each such street and only the side setback requirement shall apply to the remaining sides.

302.5 Lots which abut on more than one (1) street shall provide the required frontage along every street.

302.6 For the purpose of determining setbacks, a lot with access from a private right-of-way will be considered to front on the lot line where the right-of-way gives access to the lot.

302.7 Projections from structures may extend two feet into the required minimum setback of a required yard space. Allowed projections are limited to eaves, chimneys, pilasters, cornices, sills.

302.8 Subject to the provisions of Section 302.7 of this by-law, all structures, whether attached to the principal structure or not, and, whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side, or rear yard.

[46] 2014 Adapted from 1973 Section 402.
[47] 1973 Section 302B.

302.9 Fences shall be permitted within any required yard and minimum setback requirements shall not be applicable to such fences subject to section 302.10.

302.10 Clear sight triangles must be maintained when a property is located at the intersection of two streets or at driveway and street intersections. A clear sight triangle is measured along the property line 25 feet in both directions from the intersection. Within this area there can be no obstruction higher than three (3) feet including see through fences like chain link or picket fences.

Section 303 Generally Permitted Uses

The following uses are generally permitted in all zoning districts.

303.1 Accessory Dwelling Units. One (1) accessory dwelling unit may be located, in compliance with applicable setback standards and building coverage requirements, within or appurtenant to an owner occupied one (1) family dwelling provided that (1) the habitable area of the accessory dwelling unit does not exceed thirty (30) percent of the habitable floor area of the one (1) family dwelling and (2) parking is provided in compliance with the requirements of this ordinance.

303.2 A residential care home or group home operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered as a one (1) family residential use of property unless such home is proposed for location within one thousand (1,000) feet of another such existing or permitted home.

303.3 Home Occupations. Any resident may use up to seven hundred and fifty (750) square feet or thirty (30) percent of the habitable area of any dwelling unit, whichever is less, for an occupation that is customary in residential areas and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Adequate parking must be provided in compliance with this ordinance.[48]

303.4 Residential Accessory Structures and Uses.

303.5 Non-residential Accessory Structures and Uses in the Following Zoning Districts: Mixed Use; Commercial; Industrial; Health Service.

303.6 Essential Services.

303.7 Municipal Uses.

303.8 Emergency Shelter. In all zoning districts, existing buildings may be used to provide shelter for up to ten (10) days in response to any single emergency.

[48] 2014 Adapted from 1973 Section 301.4.

Section 304 Conditionally Permitted Uses

Non-residential accessory uses and structures are conditionally permitted uses in all zoning districts where they are not generally permitted. Adequate parking must be provided in compliance with this ordinance. Non-commercial wall paintings are allowed as a conditional use in all districts.

Ornamental and symbolic features of buildings and structures, including spires, cupolas, bell towers and domes, where such features are not used for occupancy or commercial identification that exceed the height limitations in any zoning district, may be approved as a conditional use by the DRB. The footprint of such architectural features exceeding the height limitation shall not exceed ten (10) percent of the coverage of the building they adorn. No such architectural feature shall exceed a total height of one hundred and fifty (150) feet above the average elevation of the ground surrounding the building on which it is constructed.

Section 305 Zoning District Objectives, Land Uses and Quantitative Standards[49]

Permitted and conditional uses may be established in any zoning district in accordance with the area, density and dimensional standards for that zoning district. Notwithstanding the foregoing, area, density and dimensional standards may be modified for planned residential and unit developments as provided in Article VI of this ordinance. Uses that are not designated as either permitted uses or conditional uses are prohibited.

[49] 2014 Adapted from 1973 Section 204.

Section 306 Rural Land One ("RL-1")

306.1 Objective: Land classified as "RL-1" should have the lowest intensity of use including primarily such uses as agriculture and forestry with a maximum residential density of one (1) family per ten (10) acres. Criteria considered in designating land within this district are the lack of roads or road network within the area; the topography of the land; the availability of water and sewer and, if such utilities are not available, the suitability or unsuitability of the land for sewage drainage fields; and the remoteness of the land from population centers.

306.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
Agriculture	Animal hospital
Bed and breakfast	Campground
Child care (Classes I, II and III)	Commercial horse farm
Forestry	Earth resources removal
One (1) family dwelling	Incinerator
	Kennels
	Neighborhood commercial facility
	Planned residential development
	Public building or facility
	Recreation facility
	Riding academy
	Sanitary landfill
	Stump dump
	Taxi
	Two family dwelling
	Water storage facility
	Wireless communication facility

306.3 Area, density and dimensional standards.

Minimum lot area per family in acres	Minimum lot size in acres	Minimum width of lot in feet	Minimum setback in feet		
			Front	Each Side	Rear
10	10	300	50	50	100

306.4 Pre-existing lots. Notwithstanding any other provisions of this ordinance, a lot that existed at the time of the first adoption of this ordinance comprising between thirteen (13) and twenty (20) acres may be divided into two lots comprising at least three (3) acres each.

Section 307 Rural Land Two ("RL-2")

307.1 Objective: Land classified as "RL-2" is land that is rural in character with forestry and agricultural uses as its present primary use. The area is served by adequate town roads and generally the soils and slopes are suitable for rural residential development. The maximum residential density should be dependent on the source of domestic water supply and method of sewage disposal. In addition, RL-2 residential development should not be allowed to expand so as to be a hindrance to active farming operations.

307.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
Agriculture	Animal hospital
Bed and breakfast	Campground
Child care (Classes I, II and III)	Cemetery
Commercial horse farm	Community care home
Forestry	Composting facility
Nursery	Drive-in theater
One (1) family dwelling	Earth resources removal
Riding academy	Incinerator
	Kennels
	Mobile home park
	Neighborhood commercial facility
	Planned residential development
	Public building or facility
	Recreation facility
	Sanitary landfill
	Stump dump
	Summer camp and retreat
	Taxi
	Two family and multi-family dwelling
	Water storage facility

307.3 Area, density and dimensional standards.

Water and Sewer Service	Minimum lot area per family in acres	Minimum lot size in acres	Minimum width/street frontage of lot in feet	Minimum setback in feet		
				Front	Each Side	Rear
Both off lot	¾	1	150	25	25	50
One (1) on lot	1 1/2	2	200	25	25	100
Both on lot	2	3	300	50	50	100

Section 308 Residential Town ("R-T")

308.1 Objective: Land classified as "R-T" is land, located outside of the present urban area, that is most suitable for medium density residential development use because it is located on or near existing or proposed public sewer and water systems, highway transportation systems and convenient to community and shopping facilities.

308.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
One (1) family dwelling	Agriculture
Two family dwelling	Assisted living facility
Bed and breakfast	Boarding or lodging house
Child care (Class III)	Child care (Class II)
	Church
	Community care home
	Dormitory
	Forestry
	Mobile home park
	Multi-family dwelling
	Neighborhood commercial facility
	Office *
	Planned residential development
	Public facility
	Recreation facility
	School
	Taxi
	Water storage facility

308.3 Area, density and dimensional standards.

Water and Sewer Service	Minimum lot area per family in sq. feet	Minimum lot size in Square feet	Minimum width/street frontage of lot in feet	Minimum setback in feet		
				Front	Each Side	Rear
Both off lot	7,500	10,000	100	25	15	35
One (1) on lot	15,000	20,000	125	25	15	50
Both on lot	30,000	43,560	150	25	15	50

308.4 Other.
Maximum Allowed Building Coverage: Thirty (30) percent
Maximum Allowed Building Height: Forty-five (45) feet

*Approved September 15, 2015. No petitions were filed.

Section 309 Residential A ("R-A")

309.1 Objective: Land classified as "R-A" is land developed or to be developed on relatively larger lots predominantly for one (1) family and also for two (2) family dwellings and certain other uses compatible with a residential neighborhood.

309.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
One (1) family dwelling	Two (2) family dwelling
Child care (Class III)	Bed and breakfast
	Boarding or lodging house

309.3 Area, density and dimensional standards:

Water and Sewer Service Class	Minimum lot area per family in sq. feet	Minimum lot size in Square feet	Minimum width/street frontage of lot in feet	Minimum setback in feet		
				Front	Each Side	Rear
Both off lot	10,000	15,000	150	20	15	25
One (1) on lot	15,000	20,000	150	20	15	25
Both on lot	20,000	43,560	175	20	15	25

309.4 Other.

Maximum Allowed Building Coverage: Thirty (30) percent
Maximum Allowed Building Height: Forty-five (45) feet

Section 310 Residential B ("R-B")

310.1 Objective: Land classified as "R-B" is land developed or to be developed on relatively smaller lots predominantly for one (1) family and also for two (2) family dwellings and certain other uses compatible with a residential neighborhood.

310.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
One (1) family dwelling	Assisted living facility
Two (2) family dwelling	Bed and breakfast
Child care (Class III)	Boarding or lodging house
	Child care (Classes I and II)
	Community care home
	Cultural facilities
	Dormitory
	Funeral home
	Neighborhood commercial facility
	Multi-family dwelling
	Office
	Private club
	Public building
	School
	Taxi

310.3 Area, density and dimensional standards:

Water and Sewer Service Class	Minimum lot area per family in square feet	Minimum lot size in square feet	Minimum Width/frontage of lot in feet	Minimum setback in feet		
				Front	Each[50] Side	Rear
Both off lot	1,500	9,000	90	20	15	25
One (1) on lot	15,000	20,000	125	20	15	25
Both on lot	20,000	43,560	175	20	15	25

310.4 Other.

Maximum Allowed Building Coverage: Thirty-five (35) percent
Maximum Building Height: Forty-five (45) feet

[50] 2014 Consistent with 1973 R-B

Section 311 Mixed Use ("MU")[51]

311.1 Objective: Land classified as "MU" will accommodate mixed-use buildings that may include neighborhood-serving retail, service, and other uses on the ground floor and residential units above the non-residential space; encourage compatible and cohesive development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and promotes the health and well-being of residents by encouraging physical activity, alternative transportation and greater social interaction.

311.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
One (1) family dwelling	Assisted living facility
Two (2) family dwelling	Auto Service Station*
Multi-family dwelling located above the ground floor	Boarding or lodging house
Animal hospital	Club*
Artist work space	Commercial parking
Bank	Community Care Home*
Bed and breakfast	Cultural facilities
Child care (Classes I, II and III)	Dormitory*
Church	Drive-through facility
Cultural exhibit	Extended care facility
Hotels	Funeral Home*
Indoor theaters	Level I Laboratory within Medical Office**
Library	Nursing home
Light industrial	Recreational facility
Medical office	Restaurant/bar
Motels	Taxi*
Office	
Public building or facility	
Recreation facility	
Restaurant	
Retail sale	
Retail service	
School	

311.3 Area, density and dimensional standards:

Water and Sewer Service Class	Minimum lot size in square feet	Minimum width of lot/frontage in feet	Minimum setback in feet		
			Front	Each Side	Rear
Both off lot	6,000	75	15	15	15
One (1) on lot	60,000	100	20	20	20
Both on lot	120,000	200	20	20	20

Maximum Building Height: Eighty (80) feet. Notwithstanding the foregoing, the DRB may approve as a conditional use building heights up to one hundred twenty (120) feet.

[51] New 2014
*Approved Dec. 8, 2014. No petitions were filed.
** Approved July 13, 2015. No petitions were filed.

Section 312 Commercial ("COM") [52]

312.1 Objective: Land classified as "COM" is land that will serve as a business district for the region, the community or a sizable portion of the community to include retail and wholesale establishments, offices and limited high density residential use.

312.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
Bank	Auto service station
Bed and breakfast	Bulk storage of Hazardous materials
Club	Car wash
Community center	Child Care (Classes I, II and III)
Dormitory use	Community care home
Funeral home	Convenience store
Hotel	Drive-in restaurant
Indoor recreation	Drive-in theater
Indoor theater	Incinerator
Motel	Large retail store
Medical office	Level I Laboratory within Medical Office*
Motor vehicle sale and repair facility	Multi-family dwelling
Newspaper and job printing	Recycling center
Office	Sale of Hazardous materials service (petroleum)
Parking	Taxi
Personal service	Transfer station
Private club	Trucking terminal
Public building or facility	Warehouse
Restaurant/bar	Wholesale distribution
Retail service	Wireless communication facility (free-standing, i.e. towers)
Retail store	Other commercial uses upon the finding by the DRB that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses.
Wholesale distribution service (non-petroleum)	
Wireless communication facility (co-located)	

312.3 Area, density and dimensional standards:

Water and Sewer Service Class	Minimum lot size in square feet	Minimum width of lot/street frontage in feet	Minimum setback in feet		
			Front	Each Side	Rear
Both off lot	20,000	100	20	10	20
One (1) on lot	60,000	100	20	10	20
Both on lot	120,000	200	20	20	20

Maximum Building Height: Eighty (80) feet. Notwithstanding the foregoing, the DRB may approve as a conditional use building heights up to one hundred twenty (120) feet.

[52] 2014 combines All 1973 commercial (Commercial; Commercial Light Industrial; Highway Commercial)

* Approved July 13, 2015. No petitions were filed.

Section 313 Industrial ("IND")

313.1 Objective: Land classified as "IND" is land designed to provide a location for the establishment of industry to provide employment opportunities and a broadening of the tax base in the town. Potential good highway access and water and sewer services are major considerations. A variety of types of manufacturing and offices are permitted, provided they are in keeping with the goal of making the town an attractive community and provided the performance standards of the ordinance are satisfied. This area does not conflict with major residential areas.

313.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
Any manufacturing, compounding, processing, packing, treatment, or warehousing of goods and products, provided the use meets standards of performance of this ordinance. Research or testing laboratory Office Public building or facility Trucking terminals Warehouse	Adult entertainment Auto service station Blast furnace Bulk storage of Hazardous materials Child care (Classes I, II and III) Commercial use Contractor's yard Hot-mix plant Incinerator Junk yard Large retail store Manufacturing or processing of petroleum, gas, fertilizer, bone, rubber, asphalt, ammonia, chlorine or explosives Recycling center Rendering plant Secure residential facility Slaughter house Smelter Transfer station Wholesale distributors (petroleum) Wireless communication facility

313.3 Area, density and dimensional standards:

Water and Sewer Service Class	Minimum lot size in square feet	Minimum width/street frontage of lot in feet	Minimum setback in feet		
			Front	Each Side	Rear
Both off lot	30,000	150	20	10	20
One (1) on lot	60,000	150	20	20	20
Both on lot	120,000	200	20	20	20

Section 314 Health Services ("HS")

314.1 Objective: Land classified as "HS" is land that will serve as a center for the delivery of Health Care Services for the region.

314.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
Community care home	Assisted living facility
Extended care facility	Child care (Classes I, II and III)
Health training facility	Controlled substance dispensary
Hospital	Hotel
Medical Laboratory (Level I)*	Medical Laboratory (Levels II, III, and IV)*
Medical office	Motel
Nursing home	Temporary Overnight Shelter**
Rehabilitation center	Transitional Residence**

314.3 Area, density and dimensional standards.

Water and Sewer Service Class	Minimum lot size in square feet	Minimum width/street frontage of lot in feet	Minimum setback in feet		
			Front	Each Side	Rear
Both off lot	6,000	75	15	15	15
One (1) on lot	60,000	100	20	20	20
Both on lot	120,000	200	20	20	20

* Approved July 13, 2015. No petitions were filed. Level II, III, and IV only with adequate controls, structural and otherwise, as defined and certified by State and Federal Health Organization.
** Approved October 5, 2015. No petitions were filed.

Section 315 Conservation District ("C-D")

315.1 Objective: Land classified as "C-D" is land subject to conservation rights and interests held by: 1) a municipality; 2) the State of Vermont including any of its departments, boards, instrumentalities or agencies; 3) an organization qualifying under Section 501(c)(3) of the Internal Revenue Code, provided one of the stated purposes of the organization is to acquire or hold property or rights and interest in property in order to preserve historic, agricultural, forestry or open space resources; 4) an organization qualifying under Section 501(c)(2) of the Internal Revenue Code, provided that the organization is controlled exclusively by an organization or organizations described in subsection 3) above; and 5) the United States of America.

315.2 Uses:

Permitted Uses	Permitted upon issuance of a conditional use permit
Recreation Forestry	Municipal

315.3 Area density and dimensional standards:

All Water and Sewer Service Classes	Minimum Setback in feet		
	Front	Side	Rear
	50	50	50

Section 316 Overlay Districts

316.1 Objective: The objective of overlay districts is to establish special zoning district(s), An overlay district is placed over an existing base zone(s), (base zones are defined in section 306 through 315) and identifies special provisions in addition to those in the underlying base zone. The overlay district can share common boundaries with the base zone or cut across base zone boundaries. Regulations or incentives are attached to the overlay district to protect a specific resource or guide development within a special area.

316.2 Historic Districts:

a) St Johnsbury Railroad Street Historic District was entered into the National Register on June 25, 1974 and amended, April 4, 1980, to include the full length of the Railroad Street Commercial District from Eastern Avenue to Portland Street, and the length of Eastern Avenue to the Main Street Historic District.

b) St Johnsbury Main Street Historic District, entered into the National Register on May 28, 1976, is situated along Main Street, Eastern and Western Avenues, Park and Belvedere Streets, and around Summer Street Common. The bounds of this district can be found at the US Dept. of the Interior, National Park Service, and Register of Historic Places.

c) St Johnsbury Maple Street and Clark Avenue Historic District, entered into the National Register on May 5, 1994, is situated along the length of Maple Street, Clarks Avenue to Main Street, and includes Idlewood Terrace. The bounds of this district can be found at the US Dept. of the Interior, National Park Service, and Register of Historic Places.

d) Other buildings listed on the National Register of Historic Places are:
   i. Benoit Apartment House - 74 Pearl Street – now 439 Pearl St.
   ii. Benoit Apartment House -76 Pearl Street – now 439 Pearl St.
   iii. Cote Apartment House - 16 Elm Street – now 20 Cote Court
   iv. Marshall, Caleb H., House - 53 Summer Street – now 426 Summer St.
   v. Morency Paint Shop and Apartment Building - 73-77 Portland Street – now 390 Portland St.
   vi. St. Johnsbury Federal Fish Culture Station - 374 Emerson Falls
   vii. Shearer and Corser Double House - 81-83 Summer Street – now 606 Summer St.

316.3 Design Control District:
Compliance with the provisions of 24 V.S.A. §4414(E) having occurred in connection with:

a) The adoption of the 1972 St. Johnsbury Master Plan, which included a report describing planning and design problems associated with the design Control District therein proposed; and

b) The approval by the Planning Commission on January 23, 2003 of a Design District report recommending an expansion of the original Design Control District, there is hereby established an expanded Design Control District to the extent and as indicated on the Zoning Map entitled "St. Johnsbury Zoning Map, Historic and Design Control Districts". The designation of the Design Control District hereby established by the Select board and indicated on said map is intended to encompass and include all lots:
   (i) facing to any extent on Arnold Park,
   (ii) facing to any extent Main Street along its entire length between Spruce Street to and including the entire St Johnsbury Academy property,
   (iii) facing to any extent Fairbanks Drive along its entire length,
   (iv) facing to any extent Eastern Avenue along is entire length between Main Street and the right of way of Northern Vermont Railroad (Newport and Richford Railroad); and
   (v) facing to any extent, Railroad Street along its entire length between Federal Street and Maple Street.

In the event that any such lot is less than seventy five (75) feet in depth, any lot to the immediate rear thereof is also included in the district hereby established. The indication of the boundary of the Design Control District hereby established on said map is intended to be representational only. When the administrative Officer cannot definitely determine the location of the boundary of the district hereby established by reference to this Section 316.1.1, he or she shall refuse action and the Development Review Board shall determine the boundary of such district with reference to the purposes to be served by the creation of such district.[53]

[53] Same as 1973 section 402.1

316.4 Floodway and Flood Hazard Areas:[54] Floodway and Flood Hazard Areas are areas designated along rivers, streams, and shorelines that are subject to periodic flooding. The Federal Emergency Management Agency (FEMA) has assigned risk zones to more than 19,000 communities in the United States. This system of classification allows each community to participate in the agency's National Flood Insurance Program (NFIP) with premium rates determined based upon the zone classification.

The land area covered by the floodwaters of the base flood is the "Special Flood Hazard Area" (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.

The Flood Insurance Rate Maps (FIRM) show areas within a 100-year flood boundary. A 100-year flood area does not refer to a flood that occurs every 100 years but refers to a level of flooding that has a 1 percent or greater probability of occurring or being exceeded in any given year. These 100-year flood areas are termed "Special Flood Hazard Areas" (SFHAs). SFHAs are further divided into insurance risk rate zones. Areas between the 100-year and 500-year flood boundaries are classified as moderate flood hazard areas. Minimal flood hazard areas represent those remaining areas that lie above the 500-year flood level. Surprisingly, about one-third of all claims paid by the NFIP are for areas identified as minimal or moderate risk for flooding, largely the result of inadequate drainage systems.

A "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where FEMA has provided Base Flood Elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur, or identify the need to adopt a floodway if adequate information is available.

316.4.1 Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood or obstructs the ability of streams to establish and maintain geomorphic equilibrium.

[54] New 2014; FEMA definitions

#	# Activity	Hazard Zone		
	P Permitted C Conditional Use Review X Prohibited A Exempted	Special Flood Hazard Area	Floodway FEH Zone	FEH Zone
1	New Structures	X	X	X
2	Storage	X	X	X
3	Improvements to Existing Structures	P, C C C	C	C
4	Small Accessory Structures	P	X	C
5	At Grade Parking	P	C	C
6	Replacement water supply or septic systems	C	C	C
7	Fill as needed to elevate existing structures	C	C	C
8	Fill	X	X	X
12	Grading	C	C	C
13	Road maintenance	A	A	A
14	Road improvements	C	C	C
15	Bridges and culverts	C	C	C
16	Channel management	C	C	C
17	Recreational vehicles	P	P	P
18	Open space, recreation	A	A	A
19	Forestry	A	A	A
20	Agriculture	A	A	A

316.4.2 Performance: In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.[55]

[55] New 2014: From FEMA Title 44, Chapter 1, Part 60.3(d)(3): Criteria for Land Management; Flood Plain Management Regulations.

ARTICLE IV Special Issues

Part 1 Non-Conformities

Section 401 Existing Small Lots[56]

401.1 Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any provision of this ordinance first requiring a minimum lot size larger than such lot may be developed for the purpose permitted in the district in which it is located, even though such lot no longer conforms to minimum lot size requirements of this ordinance. Notwithstanding the foregoing, development of such a lot shall be prohibited if:

a) The lot is less than one-eighth (1/8) acre in area; or

b) The lot has a width or depth dimension of less than forty (40) feet.

401.2 If an existing small lot subsequently comes under common ownership with one (1) or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

a) The lots are conveyed in their preexisting, nonconforming configuration.

b) On the date of the enactment of any provision of this ordinance requiring a larger lot size, each lot was developed with water supply and wastewater disposal system.

c) At the time of transfer, each water supply is not a failed water supply and each wastewater system is not a failed wastewater system as such terms are defined by 10 V.S.A. § 1972.

Section 402 Nonconforming Uses and Structures[57]

a) Any use of land existing on or permitted as of the effective date of any provision of this ordinance and not conforming thereto:

(i) Shall not be moved, enlarged, altered, extended, reconstructed or restored nor shall any external evidence of such use be increased by any means whatsoever, except to the extent provided in this ordinance.

(ii) Shall not be changed to another nonconforming use without approval by the DRB, after public notice and hearing, and then only to a use which, in the determination of the DRB, is of the same or more in keeping with the objective of the zoning district.

[56] 1973 Section 301.2.
[57] 1973 Article VI.

(iii) Shall not be re-established if such use has been discontinued for a period of one (1) year or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

(iv) Shall not be restored to other than a conforming use after damage from any cause, unless the nonconforming use is reinstated within one (1) year of such damage. If the restoration of such building is not completed within one (1) year, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in any undamaged part of the building. The DRB, after public notice and hearing, may extend such one (1) year deadline for good cause shown.

b) Any structure existing on or permitted as of the effective date of any provision of this ordinance and not conforming thereto:

(i) Shall not be moved, enlarged, altered, extended, reconstructed, or restored nor shall any external evidence of such use be increased by any means whatsoever, except to the extent provided in this ordinance, except that non-conforming buildings may be relocated without creating new setback or height violations as long as applicable density and coverage standards are either satisfied or the level of violation is not increased.

(ii) Shall not be restored so as to continue the non-conformance unless such restoration is completed within one (1) year of such damage. The DRB, after public notice and hearing, may extend such one (1) year deadline for good case shown.

c) If a mobile home park, as defined in 10 V.S.A., Chapter 153, is a nonconformity pursuant to this ordinance, the entire mobile home park shall be treated as a nonconformity, and individual lots within the mobile home park shall in no event be considered nonconformities.[58]

d) Nothing in this section shall be deemed to prevent ordinary course maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformity.

e) After public notice and a hearing, the DRB may waive applicable restrictions and allow the expansion of any nonconforming use or nonconforming structure if such nonconformity combined with the proposed expansion does not adversely affect the character of the surrounding area as it would exist without such nonconformity.

f) The administrative officer may issue for a period not exceeding one (1) year, a zoning permit for nonconforming structures or uses incidental to construction projects, conditioned upon removal of the structure or use upon completion of the

[58] Adapted from 1973 Section 301.7(b).

project. Such permits may be renewed upon application for an additional period not exceeding one (1) year.[59]

g) Nothing in this ordinance shall be construed to restrict the authority of the town to abate public nuisances or to abate or remove public health risks or hazards or to enforce performance standards.[60]

Part 2 Performance Standards[61]

Section 408 Performance Standards

In accordance with 24 V.S.A. § 4414(5), in all districts the following performance standards, together with all applicable State standards, shall be met. No use shall:

a) Emit noise in excess of seventy (70) decibels at any property line.

b) Emit any odor that is considered offensive.

c) Emit dust or dirt that is considered offensive.

d) Emit any smoke, in excess of Ringlemann Chart No. 2.

e) Emit any noxious gases that endanger the health, comfort, safety or welfare of any person, or which have a tendency to cause injury or damage to property, business or vegetation.

f) Cause, as a result of normal operations, a vibration which creates displacement of 0.002 of one (1) inch.

g) Create glare that could impair the vision of a driver of any motor vehicle.

h) Cause a fire, explosion or safety hazard.

Part 3 Design Standards

Section 410 Off-Street Parking[62]

410.1 Parking Required. Except in the downtown district designated pursuant to 24 V.S.A., Chapter 76A, no structure shall be erected or altered or any use changed, expanded or established without the development of off-street parking as required by this section.

410.2 Existing Structures-Change or Expansion of Use. Whenever there is an alteration or conversion of a structure or a change or expansion of a use requiring a permit hereunder that

[59] 1973 Section 311.
[60] 1973 Section 301.7(c).
[61] 1973 Section 324
[62] 2014 Adapted from 1973 Section 321

increases the parking requirements, the total additional parking requirements for the alteration, conversion, change, or expansion shall be provided in accordance with the requirements of this section.

410.3 Minimum Off-Street Parking Requirements. Parking for all uses and structures shall be provided in accordance with the following:

Use	Parking Spaces Required
Bed and breakfast, hotel and motel	One (1) for each lodging unit
Dwellings, mobile home park and campground, summer camp or retreat	One plus one (1 + 1) for each dwelling unit or camp site
Church, school or community center, health training facility	One (1) per three (3) attendees based on the largest number expected on site at any time.
Club	One (1) per six (6) members
Theater except drive-in theater	One (1) per six (6) seats
Hospital, community care home, convalescent home, assisted living, transitional residence, transitional shelter, homes for aging, rehabilitation center, temporary overnight shelter, nursing home	One (1) per three (3) beds plus one (1) for each one point two (1.2) employees based on the largest number expected on site at any time
Office, business service & medical clinic including municipal and public office and building or facility and bank	One (1) for every two hundred fifty (250) sq. ft. of gross floor area
Retail sales, service & personal service establishment including neighborhood commercial facility, artist work space, motor vehicles sales and repair and adult entertainment and controlled substance dispensary	One (1) for each three hundred (300) sq. ft. of gross floor area
Restaurant/bar	One (1) for every three (3) seats
Industrial and light industrial including earth resources removal, incinerator, nursery, commercial horse farm, drive-in theater, drive-through facility, newspaper or job printing, car wash, warehouse, trucking terminal, wholesale distributor (petroleum), research or testing laboratory, contractor's yard, transfer station, smelter, rendering plant,	One (1) for each one point two (1.2) employees, based on the largest number expected on site at any time

bulk storage facility	
Funeral home	One (1) for each seventy-five (75) sq. ft. of floor space in slumber rooms, parlors, & individual service rooms
Child care	One (1) for each two (2) children of licensed attendance
Recreation facility	One (1) for every two (2) attendees and members anticipated at most attended event
Dormitory	One (1) per every room expected to be occupied by students over 18 plus (one) 1 for each one point two (1.2) employees, based on the largest number expected on site at any time
Library, museum and cultural exhibit	One (1) for every three (3) seats in largest assembly or reading room plus one (1) for each one point two (1.2) employees, based on largest number expected on site at any time

Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be as reasonably determined by the DRB based upon a consideration of the size of the proposed facility and its associated uses.

When the calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number. Space used for fueling vehicles may not also be counted as parking spaces. The DRB may reduce or increase the amount of required parking, after public notice and a hearing for good cause shown. In reducing the amount of required parking, the DRB may require an area up to the size necessary to provide the reduced amount of parking to be maintained as green space on condition that it shall be converted to parking as necessary.

410.4 Parking Dimensional Requirements. Except to the extent waived by the DRB in consideration of topography, location of existing or proposed structures, lot configuration, or the reasonable desire to preserve existing trees and mature vegetation, the following parking lot design and dimensional standards shall apply:

Minimum Parking Dimensions					
Angle of Parking Space	Width of Space	Length of Space	Width of Angled Space	Length of Angled Space	Minimum Back-Up Length
Parallel Parking	9.0’	22.0’	-	-	-
45° Angle	9.0’	20.0’	12.7’	20.5’	15.0’
60° Angle	9.0’	20.0’	10.4’	21.8’	18.0’
90° Angle	9.0’	20.0’	9.0’	20.0’	24.0’
Aisle width (one-way)	10’				
Aisle width (two-way)	20’				

410.5 Except for one (1) and two (2) family dwellings, required parking may be located within five hundred (500) feet from the use it serves on another parcel of land.

410.6 Parking for Disabled Persons. Parking spaces for disabled persons shall comply with the current Americans with Disabilities Act guidelines and shall be at least eight feet (8’) wide with an adjacent access aisle at least five feet (5’) wide. Parking access aisles shall be part of an accessible route to the building or facility entrance. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Painting of the paved area for the dedicated parking spaces alone shall not be sufficient as the sole means of identifying these spaces.

410.7 Front Yard Parking Restricted. Required parking in all residential zoning districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the public right-of-way into the required front yard setback for the entire width of the property with the exception of a single access drive no more than twenty feet (20’) or less in width. Where parking is provided outside the required front yard setback, but either partially or entirely between the principle structure and the street, such parking shall be screened to the extent practicable from view from the public street.

410.8 Stacked or Tandem Parking Restrictions. Except as otherwise provided below, all parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle.

a) Stacked or valet parking may be allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written commitment must be filed with the town ensuring that an attendant will always be present when the lot is in operation. The requirements for minimum spaces continue to apply for stacked parking.

b) Tandem parking may be allowed for one (1) family detached dwelling units, accessory apartments, duplex dwelling units, and dedicated employee-only parking signed as such. In no case shall more than four (4) parking spaces (two (2) pairs) in total be provided in tandem on any one lot.

410.9 Pedestrian Safety. Insofar as practical, pedestrian and bicycle circulation shall be separated from motor vehicle circulation. Safe and convenient pedestrian circulation, including

appropriate sidewalks, shall be provided on the site and its approaches. The pedestrian circulation plan shall be designed to minimize conflicts with vehicular traffic.

410.10 Provision for Alternative Modes of Transportation. For any project where land development costs are expected to exceed one million dollars ($1,000,000), the DRB may require the provision of a bus stop and parking for bicycles.

Section 411 Landscaping

411.1 Landscaping Plan. Except for non-commercial residential properties and in conformance with any other ordinance, landscaping plans prepared by a landscape architect, master gardener, nursery professional, arborist, professional landscape designer or other landscape professional, including the following information, shall be submitted for site plan review:

a) All proposed physical improvements, such as buildings, walls, parking areas, sidewalks, etc.

b) Proposed landscaping materials, including vegetation to remain, types of new plant materials, identified by common name and botanical name, sizes of all new plant materials by height and/or diameter at time of planting and at maturity, quantities of each of the planting materials, and treatment of the ground surface (paving, seeding, or groundcover).

c) The location of existing natural features, such as streams, wetlands, and rock outcroppings.

411.2 Standards. Proposed landscaping shall comply with the following:

a) A landscaping budget as follows:

Land development costs	Landscaping Budget
First $250,000	3%
Next $250,000	2%
Thereafter	1%

Reasonable credit shall be given for maintaining significant natural vegetation existing at the site. After public notice and a hearing, the DRB may reduce such budget for good cause shown.

b) One (1) major deciduous tree, whose caliper is at least three (3) inches, measured at a point six (6) inches above finished grade level, shall be planted no nearer than five (5) feet to any lot line for each three hundred (300) square feet of landscaped area; and one (1) deciduous shrub or evergreen shall be planted for each two hundred (200) square feet of landscaped area.

c) Where any land use in a nonresidential district abuts land in a residential district, a strip of land, at least twenty-five (25) feet in width, shall be maintained as a landscaped area in the front yard, side yards and rear yard adjoining these other

districts, except to the extent, after public notice and hearing, the DRB determines that a lesser buffer is sufficient to screen non-residential uses from residences.

d) In the Mixed Use, Commercial and Health Services zoning districts, to the extent feasible, each lot shall have strips of land at least ten (10) feet in width in the front yard and at least five (5) feet in the side and rear yards, which strips shall be maintained as a landscaped area.

e) In the Industrial zoning district, to the extent feasible, each lot shall have a strip of land at least fifteen (15) feet in width in the front yard and at least five (5) feet in width in the rear and side yards, which strips shall be maintained as a landscaped area.

f) One (1) major deciduous tree, whose caliper is at least three (3) inches measured at a point six (6) inches above finished grade level, shall be planted as close to every thirty (30) feet as feasible along any road frontage.

g) New planting species shall be as recommended by the following:

(i) Recommended Trees for Vermont Communities: A Guide to Selecting and Purchasing Street, Park, and Landscape Trees, published by Vermont Urban and Community Forestry Program.

(ii) Planting Sustainable Landscapes – A Guide for Plan Reviewers, prepared by the Vermont Department of Forests, Parks and Recreation and the Vermont Chapter of the American Society of Landscape Architects – Section III.

(iii) Street Tree Factsheets – edited by Henry D. Gerhold, Norman L. Lacasse and Willet N. Wandell, published by the Municipal Tree Restoration Program with support from the USDA Forest Service, Northeastern Area State and Private Forestry.

411.3 External Landscaping of Parking Areas. Except for parking spaces accessory to a one (1) family or two (2) family dwelling, all off-street parking areas shall be landscaped with appropriate trees, shrubs, and other plants including ground covers, as approved by the DRB. The DRB shall consider the adequacy of the proposed landscaping to assure the establishment of a safe, convenient, and attractive parking area and the privacy and comfort of abutting properties. Screening shall be provided where headlights from vehicles on site may be visible and project parallel to a public street.

411.4 Internal Landscaping of Parking Areas. In all newly reconstructed off-street parking areas containing twenty (20) or more parking spaces:

a) At least ten (10) percent of the interior of the parking area shall be landscaped with trees, shrubs, and other plants as follows: At least one (1) major deciduous shade tree, whose caliper is at least three (3) inches measured at a point six (6) inches above the finished grade level, shall be provided within each parking area for every three thousand (3,000) square feet of paved area or every ten (10) parking spaces,

whichever ratio results in a greater amount of landscaping. A mix of large canopy tree species shall be spaced evenly throughout the lot interior to provide shade and reduce glare.

b) Planting islands shall be provided. Such islands and the landscaping within them shall be designed and arranged in such a way as to define major circulation aisles, entrances, and exits, to channel internal traffic flow, to prevent indiscriminate diagonal movement of vehicles, and to provide relief from the visual monotony and shade-less expanse of a large parking area. All islands shall be landscaped with trees, shrubs, grasses, and/or ground covers. Curbs of such islands shall be constructed of concrete, stone, or bituminous material and shall be designed to facilitate surface drainage and prevent vehicles from overlapping sidewalks and damaging the plants. Notwithstanding the forgoing, the DRB may allow curb-less parking areas and planting islands that are designed to provide for storm water run-off into vegetated areas for treatment.

411.5 Landscape Maintenance. All plantings shown on an approved site plan shall be maintained by the property owner.

Section 412 Off-Street Loading

Off-street loading, which is spaced logically, conveniently located for bulk pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Off-street loading space is not to be counted as off-street parking space.[63]

Section 413 Outdoor Lighting[64]

413.1 Outdoor Lighting Requirements. All outdoor light fixtures, other than those serving one (1) and two (2) family dwellings, shall comply with the following:

a) Where used for security purposes or to illuminate walkways, roadways and parking lots, only shielded light fixtures shall be used.

b) Where used for commercial and industrial purposes such as in merchandise display areas, work areas, platforms, signs, architectural, landscape or sports or recreational facilities, all light fixtures shall be equipped with automatic timing devices and comply with the following:

(i) Light fixtures used to illuminate flags, statues or any other objects mounted on a pole, pedestal or platform, shall use a narrow cone beam of light that will not extend materially beyond the illuminated object.

[63] 1973 Section 322.
[64] New 2014

(ii) Other upward directed architectural, landscape or decorative direct light emissions shall have at least ninety (90) percent of their total distribution pattern within the profile of the illuminated structure.

(iii) Recreational and sports facility lighting shall be shielded whenever possible. Such lighting shall have directional and glare control devices, when necessary, to prevent light trespass.

(iv) All other outdoor lighting shall use shielded light fixtures.

c) All floodlight type fixtures, once properly installed, shall be permanently affixed in the approved position.

d) Foundations supporting lighting poles not installed four (4) feet behind the curb, shall not be less than twenty-four (24) inches above ground.

e) When fifty (50) percent or more of existing outdoor light fixtures are being replaced or modified, then all lighting must be made to conform to the provisions of this lighting ordinance.

413.2 Light Trespass (Nuisance Light). All light fixtures, except street lighting, shall be designed, installed and maintained to prevent light trespass, as specified in (a) and (b) below.

a) At a height of five (5) feet above the property line of subject property, illuminations from light fixtures shall not exceed 0.1 foot candles in a vertical plane on residentially zoned property.

b) Outdoor light fixtures properly installed and thereafter maintained shall be directed so that there will not be any objectionable direct glare source visible above a height of five (5) feet from any property or public roadway.

413.3 Illuminance and Luminance Requirements. Illuminance and luminance requirements shall be as set forth in the current editions of the IESNA Lighting Handbook and other IESNA publications.

a) Street lighting – Average IESNA illuminance recommendations should not be exceeded. IESNA average to minimum illuminance uniformity ratios are to be used as a guide for designing safe and adequate roadway lighting.

b) Outdoor parking facilities – Outdoor parking lot illuminance shall be based on certain illuminance specifications recommended by the IESNA, as follows:

Maintained Illuminance for Parking Lots

	Basic	Enhanced Security
Horizontal Illuminance		
Minimum	0.2 fc	0.5 fc
Average	1.0 fc	2.5 fc
Uniformity Ratios		
Average to Minimum	5:1	5:1
Maximum to Minimum	20:1	15:1
Minimum Vertical Illuminance	0.1 fc	0.25 fc

1. Minimum horizontal illuminance shall be no lower than 0.2 fc.

2. Average horizontal illuminance shall not exceed 2.5 fc.

3. Uniformity ratios are to be used as a guide.

4. Minimum vertical illuminance shall be measured at 5.0 feet above parking surface at the point of lowest horizontal illuminance, excluding facing outward along boundaries.

5. For typical conditions. During periods of non-use, the illuminance of certain parking facilities should be turned off or reduced to conserve energy. If reduced lighting is to be used only for the purpose of property security, it is desirable that the minimum (low point) not be less than 0.1 fc in susceptible areas of the property. Reductions should not be applied to facilities subject to intermittent night use, such as apartments, hospitals and active transportation areas.

6. If personal security or vandalism is a likely and/or severe problem, an increase above the Basic level may be appropriate.

7. High vehicular traffic locations should generally require the Enhanced Level of illumination. Exits, entrances, internal connecting roadways and such would be some examples.

8. Increasing the above illuminance is not likely to increase safety and security. Variance requests for higher levels will generally be for “retail” reasons and should not be granted unless shown to be necessary and at an average illuminance not to exceed 3.6 fc.

413.4 Electric Utility Floodlights. No electric utility flood light intended for property illumination shall be located within the public right-of-way on any public roadway or on any property unless the luminaire is sufficiently shielded and aimed so that no objectionable direct

glare source is visible at any point on the roadway where the viewing height is five (5) feet or greater and when the distance from the mounting pole is seventy (70) feet or greater.

413.5 On Site Outdoor Lighting Energy Conservation. The design and installation of outdoor lighting on the site of a subdivision or site plan shall be constructed so as to conform to the standards specified herein.

a) All outdoor lighting not necessary for security purposes shall be reduced, activated by motion sensor devices or turned off during non-operating hours. Illuminated signs are excluded from this requirement.

b) All lighting shall be designed to prevent misdirected or excessive artificial light and to maximize energy efficiency.

413.6 Lighting Plan. The following information shall be submitted for review in any site application proposing the installation of outdoor lighting:

a) Description of outdoor light fixtures including component specifications such as lamps, reflectors, optics, angle of cutoff, supports, poles, and manufacturers catalog cuts.

b) Location and description of every outdoor light fixture and hours of operation.

c) Horizontal illuminance shown as foot candles (after depreciation).

(i) Maximum

(ii) Minimum

(iii) Average, during operating and non-operating hours.

(iv) Average to minimum uniformity ratio.

(v) Maximum to minimum uniformity ratio.

d) Computer-generated photometric grid showing foot candle readings every ten (10) feet and the average foot candles.

e) Foundation details for light poles.

f) When not following IESNA recommendations, a description of reason therefore and supply supporting documentation.

413.7 Prohibitions. Searchlights or flashing or animated signs are prohibited, other than for a period of seven (7) days from the date of the opening of a new establishment.

Section 414 Required Storage[65]

Any residential multi-family building or planned unit development that does not have a permanent basement or cellar at least one hundred (100) square feet of floor area per residential unit in the building shall have a storage or accessory building having a minimum floor area of three hundred (300) square feet in a building located to the side or rear of the residential building.

Section 415 Motor Vehicle Storage and Use[66]

Motor vehicles, trailers and water craft shall not be parked in the front, side or rear yard except in locations approved therefore. No more than two (2) unregistered vehicles may be parked outside a building on a lot in the Residential Town, Residential A, Residential B, Mixed Use and Health Services zoning districts. Notwithstanding the foregoing, the following may be parked in the side or rear yards no closer than six (6) feet to any lot line: (a) not more than two (2) stock or drag racing cars, (b) currently licensed water craft, (c) currently licensed snow machines, (d) currently licensed trailers, (e) currently licensed travel trailers. Notwithstanding the foregoing, the DRB, after public notice and a hearing, may allow (a) vehicles to be parked closer than six (6) feet to lot lines to the extent such vehicles are screened from view off site and (b) more unregistered vehicles to be parked on a lot. A travel trailer so parked shall not be used as living quarters and shall not be attached to any utilities except for periods of less than two (2) weeks when a visitor may utilize a camper for sleeping purposes only.

Section 416 Required Access to Public Roads or Public Waters

Land development may be permitted on lots only (a) if access to such land is safely located within the required frontage on a public road or public waters or (b) if it is not feasible to do so, access is provided by any permanent easement or right-of-way at least twenty (20) feet in width providing access to such a road or waters.[67]

Section 417 Location of Driveways

For all uses except one (1) and two (2) family dwellings, all driveways shall be located at least seventy-five (75) feet from intersection of two (2) or more streets. After public notice and hearing, the DRB may waive this requirement to the extent that such waiver does not materially harm safety or traffic flow.[68]

Section 418 Preservation of Vision at Intersections and Driveways[69]

a) Within the triangular area formed by the intersection of two (2) street property lines and a third line joining them at points twenty-five (25) feet away from their intersection, there shall be no objects obstructing vision between the height of three (3) feet and ten (10) feet above the average grade of each street. (See Clear Sight Triangle Definition.) After

[65] 2014 Adapted from 1973 Section 304.
[66] 2014 Combined 1973 Sections 316 and 504.3
[67] 2014 Adapted from 1973 Section 301.3.
[68] 2014 Adapted from 1973 Section 310.
[69] 2014 Adapted from 1973 Section 314.

public notice and hearing the DRB may waive this requirement to the extent that such waiver does not materially harm safety.

b) Driveways within the triangular area formed by a street property line and an edge of a driveway and a third line joining them at fifteen (15) feet away from their intersection, there shall be no objects obstructing vision between the height of three (3) feet and ten (10) feet above the average grade of each street. After public notice and hearing the DRB may waive this requirement to the extent such waiver will not materially harm safety.

Section 419 Screened Service Area Requirements

All areas designated, used or intended to be used as service areas for any building or land use, other than one (1) family and two (2) family dwellings, shall be screened from view with either a wall, a solid fence or a fence and evergreens to a height of at least five (5) feet above grade level, on all sides, where any adjacent land is in a residential district or in residential use.[70]

Section 420 Grading

No grading, cut or fill shall be carried out in any district which leaves the slope of the finished grade (rise to run) in excess of one (1) to two (2).[71]

Part 4 Special Uses

Section 430 Auto Service Stations and Convenience Stores/MiniMarts[72]

In all districts where permitted, auto service stations and convenience stores/mini marts shall comply with the following requirements:

a) A lot used for an auto service station or convenience stores/mini marts lot shall not be located within three hundred (300) feet of any lot occupied by a school, hospital, library or religious institution.

b) An auto service station serving as a Vermont State Inspection Station shall have a current Vermont Zoning Compliance Certification approved by the Zoning Administrator and a copy on file in the zoning office.

c) Lot size shall be at least twenty thousand (20,000) square feet.

d) Lot frontage shall be at least one hundred fifty (150) feet.

e) Lot depth shall be at least one hundred twenty-five (125) feet.

f) Pumps, lubricating and other service devices shall be located at least thirty (30) feet from the street line and thirty (30) feet from the side and rear lot lines.

[70] 1973 Section 328.
[71] 1973 Section 329.
[72] 2014 Adapted from 1973 Section 320.

g) All above-ground fuel and oil shall be stored at least twenty (20) feet from any property line.

h) All automobile parts and dismantled vehicles shall be stored within a building.

i) No more than two (2) access driveways shall be located on any primary street and no more than one (1) access driveway shall be located on any secondary street on which an auto service station or convenience store/mini mart is permitted. The maximum width of each access driveway shall be forty (40) feet.

j) A suitably curbed, landscaped area shall be maintained at least five (5) feet in depth along all street frontage not used as driveway.

Section 431 Wireless Communication Facilities[73]

431.1 Applicability. The requirements of this section shall apply to all wireless communications facilities except to the extent limited by federal or state law.

431.2 Permits. Applicants for wireless communications facilities are required to obtain a zoning permit and a conditional use permit to the extent necessary.

431.3 Locations of Facilities:

a) Zoning districts. Wireless communications facilities will be permitted as a conditional use in one (1) of the following districts designated on the St. Johnsbury Zoning Map, in accordance with other provisions of the zoning ordinance:

Rural Lands 1 Industrial
Commercial

Wireless communications facilities may not be approved within any other zoning district unless location in another district has been clearly demonstrated to be the only feasible way to provide adequate service; and that the standards and criteria applicable to conditional uses have been satisfied.

b) Minimizing impact. Due to their importance to the aesthetic quality of the town, wireless communications facilities may not be placed on the following natural features: the Knob, Harris Hill, the unnamed hill three fourths (3/4) of a mile south-southwest of Harris Hill at the end of Parker Ave., on the ridge abutting Interstate 91 immediately northwest of Interchange 20, and the Town Forest. In addition, no wireless communication facilities may be placed on Crow Hill, or the two (2) hilltops north of Crow Hill if they would be visible from the Portland Street Bridge.

[73] 2014 Adapted from 1973 Section 405; adapted for consistency.

The DRB shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the DRB may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's communication objectives.

Wireless communication facilities will be located so as to minimize the following potential impacts:

(i) Visual/aesthetic: Wireless communication facilities shall, when possible, be sited off ridgelines, and where their visual impact is least detrimental to scenic areas. In determining whether or not a wireless communication facilities will have undue adverse visual impact on the scenic or natural beauty the DRB shall consider:

(A) The period of time during which the proposed wireless communication facilities would be viewed by the public on a public highway, path, or body of water;

(B) The frequency of the view of the proposed wireless communication facilities as experienced by the public;

(C) The degree to which the view of the wireless communication facilities is screened by topographical features;

(D) Background features in the line of sight to the proposed wireless communication facilities that obscure the facility or make it more conspicuous;

(E) The distance of the proposed wireless communication facilities from the viewing vantage point and the proportion of the facility that is visible above skyline; the number of vehicles and/or viewers traveling on a public highway, path or waterway at or near the critical vantage point; and

(F) The sensitivity or unique value of the particular view affected by the proposed development.

(ii) Property values: The facility will not have an undue adverse impact on surrounding property values.

(iii) Safety hazards: In the case of structural failure, ice accumulation and discharge and attractive nuisance.

(iv) Electromagnetic radiation: In the case of wireless communication facilities is found to exceed the FCC guidelines.

431.4 Permitting Priority. Wireless communication facilities are permitted according to the following priority:

a) Co-located with an existing wireless communications facility

b) Concealed within existing structures

c) Camouflaged and within an existing structure

d) Camouflaged, or camouflaged on an existing structure such as, but not limited to an existing electric transmission tower, or an existing radio antenna, a water tower, or building and of compatible design.

e) On land owned by the town which complies with other requirements of this section, and where visual impact can be minimized and mitigated.

f) If demonstrated to the DRB that each of the above five (5) types of locations is not feasible, but complies with the other requirements of this section and where visual impact can be minimized.

431.5 Co-location Requirements. Towers must be designed to allow for future rearrangements of antennas on the tower and to accept antennas mounted at varying heights where overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas where overall permitted height allows.

An application for a new telecommunications tower shall not be approved unless the DRB finds that the facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one (1) of the following reasons:

a) The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the state of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

b) The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the state of Vermont and such interference cannot be prevented at a reasonable cost.

c) The proposed antennas and equipment - either alone or together with existing facilities, equipment or antennas - would create radio frequency interference (RFI) in violation of federal standards or requirements.

d) The proposed antennas and equipment either alone or together with existing facilities, equipment antennas would create radio frequency radiation (RFR) in violation of federal standards or requirements.

e) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the state of Vermont.

f) Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment on an existing or approved tower or building.

g) There is no existing or approved tower in the area in which coverage is sought.

h) Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment on an existing or approved tower or building.

431.6 Other provisions and dimensional standards

a) Free-standing telecommunications towers or antennas over thirty-five (35) feet in elevation may not be located within three hundred (300) feet horizontally from any historic district or property eligible to be listed on the federal historic register.

b) Free-standing telecommunications towers or antennas over thirty-five (35) feet in elevation may not be located within three hundred (300) feet horizontally from any structure existing at the time of the application which is used as either a primary or secondary residence, the property of any school, or any other building.

c) Free-standing telecommunications towers or antennas over thirty-five (35) feet in elevation may not be located within three hundred (300) feet horizontally of any river or perennial stream.

d) Free-standing telecommunications towers or antennas over thirty-five (35) feet in elevation may not be located within three hundred (300) feet horizontally of any designated scenic road or highway.

e) Design Compatibility: Equipment shelters and accessory buildings must be designed to be architecturally similar and compatible with the surrounding area.

f) New Towers: Any new free-standing tower shall be of a monopole construction. New towers shall not exceed the minimum height necessary to provide adequate coverage within the town. If attached to an existing structure, the height of the antennas is limited to no more than twenty (20) feet above the upper elevation, and, in the case of a free-standing structure, to a maximum of thirty-five (35) feet. Construction of a new tower that exceeds these height restrictions is not permitted unless the applicant demonstrates during the permitting process that adequate coverage within the town cannot be met for the locations permitted.

g) Setback and height: New towers and antennas must be set back from each lot line at least a distance equal to the height of the tower. The DRB may grant a conditional use permit to allow a lesser setback.

h) Security, signs, noise and lighting: The area around the wireless communications facility must be secure from trespass or vandalism. A sign not larger than one (1) square foot must be posted adjacent to the entry gate indicating the name of the facility owner(s), a twenty-four (24) hour emergency telephone number, and the presence of RFR. No advertising is allowed. No lighting is allowed except as required by the federal aviation administration and except for manually operated emergency lights for use by operation personnel. The town may impose conditions to minimize the effect of noise at the site perimeter from the operation of any machinery or equipment.

i) Reporting Requirement: Once every two (2) years, and by January 15th (or sooner, if specified in the permit), the wireless communications carriers must file with the town information demonstrating that they are in compliance with FCC standards and requirements regarding RFR. The applicant shall provide a list of RFR readings, their distances from the tower/transmitter, dates of the readings and the name of the person or company who took the readings.

j) Removal Requirement: All structures associated with a wireless communications facility are to be removed within one (1) year of the cessation of use. At the time of removal, the site must be re-mediated and all equipment removed. If all facilities on a tower have ceased to operate, the tower (including the foundation) shall also be removed and the site shall be re-vegetated. The applicant, as a condition of the permit must provide a financial surety or other form of financial guarantee acceptable to the town to cover the cost of the removal of the facility and the re-mediation of the landscape should the facility cease to operate.

k) Justification of Need: If a permit is required for the installation of as wireless communications facility, the applicant for the permit is required to justify the need for that facility. The applicant is required to file documentation on the coverage area of the proposed facility, whether other facilities controlled by the applicant would be capable of providing the coverage, the capacity of the other facilities controlled by the applicant that could provide the coverage and whether other technology could be used to increase the coverage without the necessity of constructing the proposed facility.

l) Contracted Leasers: Documentation that the applicant is not building the proposed tower on speculation and has contracted leasers for the use of the tower.

m) In addition to information otherwise required in this ordinance, applicants for wireless communication towers or facilities shall include the following supplemental information:

(i) The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the

name and address of the business and the state in which it is incorporated and has its principal office shall be provided.

(ii) The name, address, telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.

(iii) The names and addresses of the record owners of all abutting property.

(iv) A report from qualified and licensed professional engineers that:

(A) Describes the facility height, design and elevation.

(B) Documents to the height above grade for all proposed mounting positions for antennas to be co-located on a telecommunications tower or facility and the minimum separation distances between antennas.

(C) Describes the tower's proposed capacity, including the number, height and type of antennas that the applicant expects the tower to accommodate.

(D) Documents steps the applicant will take to avoid interference with any established public safety telecommunications.

(E) Describes the output frequency, number of channels and power output per channel for each proposed antenna.

(F) Includes a written five (5) year plan for use of the proposed telecommunications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development coverage within the town.

(G) Demonstrates the tower's compliance with the town's structural standards for setbacks for towers and support structures.

(H) Describes the radio frequency radiation at the site, whether or not the applicant is regulated by the FCC and the basis for the statement pertaining to RFR.

(I) Provides proof that at the proposed site, the applicant will be in compliance with all FCC regulations, standards, and requirements regarding radio frequency interference.

(J) Includes other information required by the town that is necessary to evaluate the request.

(K) Includes an engineer's stamp and registration number.

(v) For all telecommunication towers or facilities, the applicant shall provide a letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this ordinance.

(vi) An applicant for a permit for a facility to be installed on an existing structure shall provide a copy of its executed contract with the owner of the existing structure to the administrative officer at the time an application is submitted.

(vii) To the extent required by the National Environmental Policy Act and as administered by the FCC, A COMPLETE environmental Assessment draft or final report describing the probable impacts of the proposed facility.

(viii) A copy of the application or draft application for an Act 250 permit, if applicable.

431.7 Site Plan Requirements for Wireless Communications Facilities Not Covered Above. In addition to the site plan requirements found elsewhere in the town's zoning ordinances, site plans for wireless communication facilities shall include the following supplemental information:

a) Location map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two (2) mile radius of the proposed facility site.

b) Vicinity map, showing the entire vicinity within a two thousand five hundred (2,500) foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed facility site parcel and all easements or rights of way needed for access from a public way to the facility.

c) Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.

d) Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.

e) Computer generated photo simulations of the proposed facility showing the facility from all public rights of way and adjacent property from which it may be visible. Each photo must be labeled with the line of sight elevation and the date taken imprinted on the photograph.

f) In the case of a proposed site that is forested, the approximate average height of the existing vegetation within two hundred (200) feet of the tower base.

g) Construction sequence and time schedule for completion of each phase of the entire project.

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

431.9 Amendments to Existing Telecommunications Facility Permit. An alteration or addition to a previously approved telecommunications facility shall require a permit amendment when any of the following are proposed:

a) Change in the number of buildings or facilities permitted on the site;

b) Material change in technology used by the telecommunications facility;

c) Addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

431.10 Temporary Wireless Communication Facilities. Any telecommunications facility designed for temporary use is subject to the following:

a) Use of a temporary facility is permitted only if the owner has received a temporary use permit from the town.

b) Temporary telecommunication facilities are permitted for no longer than five (5) days use during a special event.

c) The maximum height of a temporary facility is fifty (50) feet from grade.

d) Temporary facilities must comply with all applicable portions of these regulations.

431.11 Maintenance of Telecommunications Facilities Insurance. The telecommunications facility owner shall maintain adequate insurance on all telecommunication facilities.

431.12 Provision for Hiring Independent Consultants. In connection with review of an application for a permit under this ordinance, the DRB may determine that it needs the assistance of an independent consultant or consultants to evaluate the application under applicable standards of this ordinance. Upon making such determination, the Board may hire independent consultants, the reasonable costs of whose services shall be paid for by the applicant. These consultants shall be qualified professionals with an appropriate combination of training, record of service and/or certification.

Section 432 Wood-Fired Furnaces, Boilers, and Stoves[74]

432.1 Permit and Application Requirements. The installation of outdoor wood-fired, but not pellet-fired, furnaces, boilers and stoves shall require the issuance of a zoning permit before installation. A zoning permit application for an outdoor wood-fired furnace, boiler or stove shall include:

a) A completed application form, signed by the property owner;

b) A scaled diagram showing the location of the proposed wood-fired furnace, boiler or stove and the location of all dwellings within five hundred (500) feet; and

c) The manufacturer's specifications for the proposed wood-fired furnace, boiler or stove.

432.2 Prohibited Locations. An outdoor wood-fired furnace, boiler or stove shall not be located:

a) Outside the RL-1 and RL-2 zoning districts;

b) Within three hundred (300) feet of any dwelling except those located on the same lot as its proposed location; or

c) Within fifty (50) feet of any lot line.

432.3 Installation and Operation.

a) An outdoor wood-fired furnace, boiler, or stove shall have a chimney that extends at least fifteen (15) feet above the ground surface. If there are any residences within five hundred (500) feet, the chimney shall also extend at least as high above the ground surface as the peak of the roofs of all such residences. The administrative officer may approve or require a lesser or greater height on a case-by-case basis if necessary:

(i) To comply with manufacturer's recommendations;

(ii) To obtain a sufficient height to effectively disperse smoke; or

(iii) If the smoke from the lower chimney height does not create a nuisance for neighbors.

b) Outdoor wood-fired furnaces, boilers, or stoves and any electrical, plumbing, mechanical or other apparatus or device in connection with an outdoor wood-fired furnace, boiler, or stove shall be installed, operated, and maintained in conformity with the manufacturer's specifications and recommendations and all local, state, and federal codes, laws, rules, and regulations.

[74] New 2014.

c) An outdoor wood-fired furnace, boiler, or stove shall not be used to burn refuse, leaves, green vegetative matter and noxious plants.

d) Only products designed and manufactured to be utilized in the outdoor wood-fired furnace, boiler, or stove may be burned in the unit.

e) Existing outdoor wood-fired furnaces, boilers, or stoves that are located less than three hundred (300) feet away from a dwelling that is not on the same property as the outdoor wood-fired furnace, boiler, or stove may not be operated during the months of May, June, July, August, and September.

Section 433 Mobile Home Parks[75]

433.1 No person shall develop or expand a mobile home park without site plan and conditional use approval following the process and applying the standards for the subdivision of land except that the following standards shall apply instead:

a) A mobile home park shall comprise at least fifteen (15) acres.

b) Each mobile home lot shall be at least seven thousand five hundred (7,500) square feet in area, and be at least sixty (60) feet wide and at least one hundred twenty (120) feet deep, and shall front on an access road.

c) Each lot within the mobile home park may be served from a privately owned access road rather than from a publicly dedicated street.

d) At least one all-weather walkway at least five (5) feet wide shall be provided along and within the right-of-way of each access road.

e) Two (2) parking spaces for each mobile home lot shall be provided, at least nine (9) feet wide by twenty two (22) feet long. Adequate parking shall also be provided for all amenities such as recreation areas and laundry facilities located within the mobile home park.

f) No recreation area shall be less than three thousand (3,000) square feet.

g) A suitable nonporous pad shall be provided for each mobile home.

h) Each mobile home lot shall have attachments for water supply and for sewage disposal.

i) No mobile home, office or service building shall be closer to a publicly owned street right-of-way line than eighty (80) feet or closer to a property line than fifty (50) feet.

[75] 2014 Modified 1973 Sections 502 and 503.

j) A strip of land at least twenty-five (25) feet in width shall be maintained as a landscaped area abutting all mobile home park property lines.

k) At least one hundred (100) square feet of conveniently located accessory storage shall be provided for each individual mobile home lot.

l) Individual outdoor faucets with hose hook-ups shall be provided for each mobile home space.

m) Unless trash pick-up service is provided to each lot weekly, a centralized refuse and trash storage area(s) shall be provided and be readily accessible to all mobile home lots. Trash storage areas shall be concealed from any public and private street and enclosed by a six (6) foot solid wall or fence.

n) The applicant is not required to record approved subdivision plats.

o) The applicant shall not be required to comply with Section 509 of this ordinance.

p) Accessory uses that serve park residents and which shall not be available for use by the general public, including coin operated machines for laundry, soft drinks, cigarettes and similar uses, shall be permitted on condition that such uses shall be located in the interior of the park and shall not occupy more than five hundred (500) square feet of area for each fifty (50) mobile homes or fraction thereof.

q) For those mobile home parks that are in a flood prone area assurance that such proposals meet minimum development requirements to minimize flood damage. [60.3(a)(4)(i)][76]

433.2 Maintenance. The owner of the mobile home park shall be responsible for maintaining the park including snow removal, road maintenance and regular mowing and compliance with all conditions of its zoning permit and all sections of county, state, and of other pertinent laws and regulations pertaining to the use, operation, and maintenance of such mobile home park. Nothing contained in this section shall be construed to abrogate, void or minimize such other pertinent regulations.

Section 434 Travel Trailer Parks[77]

No person shall develop or expand travel trailer parks without site plan and conditional use approval. In addition to other applicable standards, the DRB shall apply the following:

a) Trailer camps shall provide for individual trailers, access roads and parking.

b) Each trailer lot shall be at least two thousand five hundred (2,500) square feet in area, and at least twenty (20) feet in width.

[76] New 2014: NLIP (FEMA) regulations 60.3(a)(4)(i)
[77] 2014 Modified 1973 Sections 505 and 506.

c) All access roads within a trailer camp must be at least thirty (30) feet in width and have a compacted gravel surface at least twenty (20) feet in width.

d) Each trailer lot shall have an attachment for water supply and sewage disposal.

e) No trailer lot or service building shall be closer to a public street right-of-way line than eighty (80) feet, or closer than fifty (50) feet from a residential dwelling.

f) For those subdivisions that are in a flood prone area assurance that such proposals meet minimum development requirements to minimize flood damage. [60.3(a)(4)(i)][78]

Section 435 Controlled Substance Dispensaries[79]

435.1 No person shall operate, develop or expand a controlled substance dispensary without site plan and conditional use approval. In addition to other applicable standards, the DRB shall apply the following:

a) A controlled substance dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, motor home or other motor vehicle.

b) A controlled substance dispensary shall have an interior customer waiting area equal to a minimum of twenty-five (25) percent of the gross floor area.

c) A controlled substance dispensary shall not have a drive-through service.

d) A controlled substance dispensary shall not have outdoor seating areas.

e) A controlled substance dispensary shall not offer a service that provides offsite delivery of the medical marijuana or methadone.

f) A controlled substance dispensary shall be set back a minimum of one thousand (1,000) feet from a public, private or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior wall of the controlled substance dispensary to the closest property line of a school or childcare center.

g) A controlled substance dispensary shall be set back a minimum of one thousand (1,000) feet from a church, library or public park and a minimum of three hundred (300) feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed drug or alcohol rehabilitation facility, measured in a straight and direct horizontal line from the closest wall of the controlled substance dispensary

[78] 2014 New: NLIP (FEMA) regulations 60.3(a)(4)(i)
[79] 2014 New.

to the closest property line of a church, library, public park, licensed residential substance abuse diagnostic and treatment facility or other licensed drug or alcohol rehabilitation facility.

Section 436 Adult Entertainment[80]

No person shall develop or expand an adult entertainment establishment without site plan and conditional use approval. In addition to other applicable standards, the DRB shall apply the following: An adult entertainment establishment shall not be located within one thousand (1,000) feet of a public, private or charter school, a childcare center, a church, or another adult entertainment establishment measured in a straight line between the closest exterior walls of the adult entertainment establishment and the property line of the school, childcare center, church or other adult entertainment establishment.

Section 437 Storage of Flammable Liquids and other Hazardous Material[81]

The storage of any flammable liquid in tanks above ground with unit capacity greater than five hundred fifty (550) gallons shall be prohibited, unless such tanks up to and including ten thousand (10,000) gallon capacity are placed not less than eighty (80) feet from all property lines, and unless all such tanks of more than ten thousand (10,000) gallon capacity are placed not less than two hundred (200) feet from all property lines.

All tanks having a capacity greater than five hundred fifty (550) gallons shall be properly restrained with dikes having a capacity not less than one and one-half (1 ½) times the capacity of the tanks surrounded.

No commercial storage or sales of hazardous materials shall be permitted other than in the COM and IND districts.

Section 438 Removal of Earth Resources

In any district, the removal of soil, sand or gravel for sale, except when incidental to construction of a building on the same premises, shall be permitted only upon approval of a plan by the DRB for the rehabilitation of the site, after public notice and hearing. In any district, the following provisions shall apply:

438.1 Before approval of any new or extension to a sand or gravel operation, a performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall be sufficient to cover the cost of redevelopment of the site as a park, lake recreation area or other usable open space.

[80] 2014 New. Adapted from medical marijuana regulations 18 V.S.A. Ch. 86.
[81] 2014 Modified 1973Section 325

438.2 The removal of all material shall be so conducted so as to result in the improvement of the land, giving 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 pits or level such slopes.

438.3 The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the administrative officer.

438.4 All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the administrative officer.

438.5 No excavation or blasting, or removal of vegetation shall take place within one hundred (100) feet of any street or other property line.

438.6 No power-activated sorting machinery or equipment shall be located within three hundred (300) feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.

438.7 All excavation of slopes in excess of one (1) to two (2) shall be protected from encroachment by a fence at least five (5) feet in height.

438.8 Extension of an existing nonconforming operation shall not be permitted, except after compliance with all of the provisions of this section.

438.9 Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited.

Section 439 Junk Yards/Salvage Yard

All Junk Yards and Salvage yards shall be owned, established, operated and maintained in accordance with State regulation 24 V.S.A Chapter 61 §2247. A current "certificate of approval for location of a salvage yard" shall be on file with the Zoning Administrator.

Section 440 Drive-in restaurant and free-standing retail stands

Plans for the erection or structural alteration of any drive-in restaurant or free-standing retail stand shall be submitted to the development review board for approval. The DRB may require such changes or additions in relation to yard, driveways, driveway entrances and exits, and landscaping, and the location and height of buildings and enclosures to ensure safety, to minimize traffic or difficulties, and to safeguard adjacent properties.

Section 441 Temporary Overnight Shelter[82]

No person shall establish a Temporary Overnight Shelter without site plan and conditional use approval. In addition to other applicable standards, the DRB shall apply the following:

1. All Temporary Overnight Shelters must be located at least one thousand (1000) feet away from any school or playground.
2. All Temporary Overnight Shelters must include operational procedures which provide for the safe transportation of all guests to a place where guests may receive services or have their needs met.
3. All Temporary Overnight Shelters must include operational procedures which keep guests from forming lines or loitering in the front of the building.
4. All Temporary Overnight Shelters should be on an available public transportation route.
5. The DRB may ask for detailed safety protocol which may include:
    a. Emergency service access
    b. Volunteer training
    c. Number of volunteers on site at all times
    d. Availability of paid staff.
6. In addition to the "character of the area affected" (See Section 204.4.1b), the DRB may consider other factors in the appropriateness of location including impact on economic development.

Section 442 Transitional Residence[83]

No person shall establish a Transitional Residence without site plan and conditional use approval. In addition to other applicable standards, the DRB shall apply the following:

1. The DRB may ask for detailed safety protocol which may include:
    a. Emergency service access
    b. Volunteer training
    c. Number of volunteers or staff on site at all times
    d. Availability of paid staff.
2. In addition to the "character of the area affected" (See Section 204.4.1b), the DRB may consider other factors in the appropriateness of location including impact on economic development.

Part 5 Flood Hazard[84]

Section 450 Flood Hazard Regulation

In accordance with 10 V.S.A. Chapter 32, and V.S.A. Chapter 117 §4424, §4411 and §4414, there is hereby established a bylaw for areas at risk of flood damage in the Town of St. Johnsbury, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117., within all areas hereinafter described, the following provisions shall apply in addition to all other applicable standards.[85]

450.1 Land to Which These Regulations Apply. These regulations shall apply for development in all areas in the town identified as areas of special flood hazard on the "Flood Insurance Rate Map" and the "Floodway Map" accompanying the Flood Insurance study for the Town of St. Johnsbury, Vermont dated July 3, 1986 which are hereby adopted by referenced and declared to be part of this ordinance.

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[82] Approved October 7, 2015. No petitions were filed.
[83] Approved October 7, 2015. No petitions were filed.
[84] 2014 Modified 1973 Section 330 with conforming changes.
[85] 2014 New: VT NLIP Review

450.2 Precedence of Bylaw. The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

450.3 Review Procedures.

a) Prior to issuing a zoning permit for the construction of new buildings, the substantial improvement of existing buildings in the flood hazard area, or for land development in the floodway, a copy of the application shall be submitted to the Vermont Agency of Natural Resources ("ANR") in accordance with 24 V.S.A. § 4424(2)(D)(i). A zoning permit may be issued only following receipt of comments from the ANR or the expiration of thirty (30) days from the date the application was mailed to ANR, whichever is sooner.

b) Adjacent communities and ANR shall be notified at least fifteen (15) days prior to issuing any zoning permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

c) Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law.

450.4 Flood Hazard Area and Floodway Limits.

a) Where available, i.e.; Zones A1-A30, AE, and AH, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of this ordinance.

b) In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, i.e.; Zone A, base flood elevation and floodway information available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer the provisions of these ordinances.

450.5 Development Standards for new construction or substantial improvements.

a) Floodway areas.

(i) 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.

(ii) Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

b) Flood hazard areas.

(i) All development shall be designed to (i) minimize flood damage to the proposed development and to public facilities and utilities, and (ii) to provide adequate drainage to reduce exposure to flood hazards.

(ii) Structures (including manufactured homes) shall be (i) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damage, and (iv) be constructed with electrical, heating ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(iii) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

(iv) New replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water.

(v) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(vi) New and 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.

(vii) The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.

(viii) An existing building to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection vii.

(ix) An existing building to be substantially improved for nonresidential purposes shall either (A) meet the requirements of subsection 2, or (B) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed

methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

(x) 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 floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: (i) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. (ii) The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(xi) Areas to be used for junkyards or for storage of floatable, hazardous or toxic materials shall be filled and graded to at least one (1) foot above the base flood elevation.

(xii) Motor homes placed on sites within Zone A shall either (i) be on the site for fewer than one hundred eighty (180) consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" of Section 60.3(c)(6) thereof.

450.6 Duties and Responsibilities of the Administrative Officer. The administrative officer shall have the duty to insure that the following requirements have been satisfied or complied with:

a) All required permits have been issued for all proposed land development in areas of special flood hazard.

b) The lowest floor, including basement, of all new or substantially improved buildings, are at or above the minimum elevation in relation to mean sea level.

c) Buildings have been flood proofed to above the minimum elevation in relation to mean sea level.

d) All flood proofing certifications required under this ordinance shall have been issued.

e) All required variances shall have been granted, including justification for their issuance.

450.7 Special Exceptions. Special exceptions shall be granted by the DRB only:

a) In accordance with the provisions of 24 V.S.A. § 4424(2)(E) and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

b) Special exceptions. The DRB, after public notice and hearing, may approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood or other hazard area, subject to compliance with applicable federal and state laws and regulations, and provided that the following criteria are met:

(i) The DRB finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.

(ii) The DRB finds that the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, increase the risk of other hazard in the area, or threaten the health, safety, and welfare of the public or other property owners.

(iii) The permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood or other hazard area, does not conform to the ordinances pertaining to that area, and will be maintained at the risk of the owner.

450.8 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 on the part of the Town of St Johnsbury or any official or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made hereunder.

450.9 Enforcement and Penalties.

a.) This bylaw shall be enforced under the municipal zoning bylaw in accordance with 10 VSA § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.

b.) If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

c.) Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

Part 6 Other Permitted Structures

Section 460 Mobile Building

A mobile building shall be treated as a residential dwelling except mobile buildings may be located on a construction site as provided in Section 402(f) and a mobile home may temporarily be located on any land classified as either "RL-1" or "RL-2" for so long and only so long as such mobile home is used as an employee farm dwelling.

Section 461 Signs[86]

461.1 Sign Permits and Applications. Unless specifically exempted by this section, all signs shall require the issuance of a zoning permit before public display. A zoning permit application for a sign shall include the following:

a) A completed application form, signed by the property owner, along with the applicable fee;

b) A scaled rendering of the proposed sign indicating its dimensions in square inches or feet (length, width, height), and all materials and colors used;

c) Where applicable, the type and method of illumination (i.e. external, internal, or backlit), including the fixture style, placement, and bulb wattage and type;

d) The total square footage of all existing signs for the establishment; and,

e) Photographs of the buildings or site where the sign is proposed.

f) Applications involving free-standing signs shall also include a scaled site plan indicating the location of all existing and proposed signs on the lot and all setbacks in feet from the property lines and/or rights-of-way.

g) Applications involving parallel and projecting signs shall also include a scaled building elevation indicating the location of all existing and proposed signs on the building face and the frontage dedicated to the establishment in linear feet.

461.2 Exempt Off-Premises Signs. The following types of signs are allowed in all zoning districts, shall be exempt from the requirements of this section and may be located off premises.

a) Political signs: Signs advertising political parties and/or candidates provided:

(i) The size of such signs does not exceed thirty-two (32) square feet;

[86]2014 Adapted from 1973 Section 323

(ii) Such signs are not erected earlier than twenty-five (25) days prior the date on which absentee ballots may be voted in the election to which they pertain; and

(iii) All such signs are removed within three (3) days after the date of the election.

b) Temporary non-illuminated signs directing persons to temporary exhibits, shows or events provided:

(i) The size of each such sign does not exceed twelve (12) square feet in area; and,

(ii) Such signs are not posted earlier than two (2) weeks prior to the event and are removed within three (3) days after the event.

c) Non-illuminated signs used for directing members or patrons to clubs, churches or other nonprofit organizations provided:

(i) Such signs indicate only the name of the facility and the direction of the facility; and,

(ii) Such signs do not exceed four (4) square feet in area.

d) Highway and official signs: Subject to approval by the town manager or his or her designee, signs within the public right-of-way or along a public thoroughfare designed and placed in conformance with the Manual on Uniform Traffic Control Devices (MUTCD) published by the US Dept. Of Transportation, and other official public signs or notices placed on a temporary basis for use by emergency services or public utilities.

461.3 Exempt On-Premises Signs. The following types of signs are allowed in all zoning districts and shall be exempt from the requirements of this section, but must be located on premises.

a) Directional signs: Non-illuminated signs displayed on private property strictly for the direction, safety or convenience of the public, including such signs which identify the location of restrooms, telephone booths, parking area entrances or exits, freight entrances or the like, provided the area of any such sign shall not exceed two (2) square feet.

b) Real estate sale/rental sign: One (1) temporary non-illuminated sign advertising the sale or rental of the premises or indicating that such premises have been sold or rented, provided the area of any such sign shall not exceed six (6) square feet and shall be removed within three (3) days after the rental agreement has been executed or title has been transferred.

c) Flags: The American Flag of any size and other flags or emblems of religious, educational, or governmental organizations, not to exceed thirty-two (32) square feet with no single dimension greater than eight (8) feet provided they not exceed three (3) flags per fifty (50) feet of frontage, and are flown from supports of the buildings or grounds being occupied by the organization or an individual.

d) Contractor sign: A single non-illuminated sign, not exceeding thirty-two (32) square feet in area, maintained on the premises while a building is actually under construction.

e) Property restriction signs: Non-illuminated signs such as those announcing no trespassing; the private nature of a road, driveway, or premises; or regulating fishing or hunting on the premises, provided the area of any such sign shall not exceed two (2) square feet.

f) Holiday decorations: Holiday decorations displayed for and during recognized federal, state, or religious holidays to the extent they do not interfere with traffic safety or in any way becomes a public safety hazard.

g) Home occupation signs: One (1) non-illuminated sign for a permitted home occupation not to exceed eight (8) square feet.

h) Residential sign: A sign of less than two (2) square feet which serve only to indicate the name and address of residential occupants.

i) Yard sale signs: Two (2) signs, each of less than eight (8) square feet displayed for no more than fourteen (14) days per year at any location advertising a yard sale.

j) Memorials/interpretive markers: Non-illuminated memorial, interpretive signs, or historical signs or tablets displayed by a public or educational non-profit agency strictly for the purpose of informing or educating the public provided the area of any such sign shall not exceed thirty-two (32) square feet.

k) Banners: In the commercial zoning district, all banners and in all other zoning districts, banners that do not exceed one hundred forty (140) square feet that are displayed for no more than three (3) weeks at a time.

l) Streamers, pendants or bunting: In the commercial zoning district, all streamers, pendants and/or bunting and in all other zoning districts unlettered streamers, pendants or bunting for up to three (3) months per year at any location.

m) Subdivision name sign: One (1) sign of twenty-four (24) square feet in area at each street entrance to a subdivision.

n) Sandwich board: One sandwich sign per business located on premises and not on land owned by the town or a public or private street or road right-of-way.

o) Seed signs: Up to one (1) sign per acre or part thereof, each sign no larger than four (4) square feet, identifying the source, type or brand of any seeds used to plant crops.

p) Emergency signs: Signs at any location and of any size as authorized by the fire chief or his/her designee to address an emergency situation or event.

461.4 Prohibited Signage. No person shall paint, paste, brand, stamp or in any other manner place on or attach to any tree, rocks or other natural feature, utility pole, or other pole on any street or public right-of-way, any sign, excluding an official sign, or other advertisement, bill, notice, card or poster without the owner's permission. Except as otherwise provided herein, the following types of signs are prohibited:

a) Any off-premise signs, balloons or other inflatable object which advertises or otherwise directs attention to any commodity or activity sold, offered or conducted elsewhere than on the premises upon which such sign is allowed.

b) Any sign or supporting structure located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building or other permanent structure and an encroachment permit has been obtained from the Department of Public Works.

c) Any sign or other advertising device with visible moving or movable parts or with flashing animated or intermittent illumination (except signs indicating the time, date or weather conditions), and any sign that contains any fluorescent paint or device, including mirrors, which has the effect of intensifying reflected light.

d) Signs that are visible from outside a building advertising the sale of products containing alcohol or tobacco comprising more than 20% of the area allowed for on-premises signs.

461.5 Non-Conforming Signs. Any existing sign or other advertising device that does not conform to the provisions of this ordinance shall be deemed a non-conforming sign. Non-conforming signs may remain in use at the same location, and ordinary maintenance and repair of such signs shall be permitted.

A non-conforming sign shall not be relocated, enlarged, replaced, redesigned, or altered in any way (except for a change of lettering, logo or colors using the same materials within an existing sign frame subject to obtaining a zoning permit) except to bring the sign into complete compliance with this section. Notwithstanding the foregoing, after public notice and hearing, the DRB may allow a non-conforming sign to be enlarged, replaced, redesigned, or altered so that it is in greater compliance with this section than the existing nonconforming sign.

When a use is changed or terminated, any nonconforming sign associated with the use shall be removed within seven (7) days of the change or termination. Sign removal shall include all nonconforming frames, rods and support material required by the sign, as well as the entire sign itself.

461.6 Change in Use or Termination of Activity. When a use is changed or terminated, any conforming sign associated with the use shall be removed within ninety (90) days of the change or termination unless (a) a permit for a new sign reusing all or some of the existing panel, frames, rods, and support material has been issued and the sign has been installed, or (b) an extension has been granted by the administrative officer upon written request. Sign removal shall include all frames, rods and support material required by the sign, as well as the entire sign itself.

461.7 Allowed signs in Commercial, Industrial, Mixed Use and Health Services Zoning Districts.

a) On-premises signs shall be allowed as follows:

Sign Type	Dimensional Requirements	Commercial	Industrial	Mixed Use	Health Services
Parallel	Size	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage
	Maximum Size Per Individual Sign	75 sq ft	150 sq ft	75 sq ft	75 sq ft
	Maximum Height	Up to 20 ft above the height of the building	Up to 20 ft above the height of the building	Up to 20 ft above the height of the building	Up to 20 ft above the height of the building
Projecting	Size	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage	Greater of 50 sq ft total or 2 sq ft per linear foot of lot frontage
	Maximum Height	14 ft	14 ft	14 ft	14 ft
	Minimum Height of Sign Bottom	8 ft	8 ft	8 ft	8 ft
Free-standing	Maximum Size	75 sq ft	150 sq ft	75 sq ft	75 sq ft
	Maximum Height	40 ft	40 ft	40 ft	40 ft

b) Calculation of allowed sign area. The following shall govern the calculation of a sign's allowed area:

(i) The area of a sign shall include all lettering, designs, or symbols, together with the background, whether open or enclosed, upon which they are displayed. Not included are any supporting framework incidental to the display itself.

(ii) Advertising relating to a specific product or products sold on the premises, or the utilization of corporate symbols, logos, or similar features, shall be included in the aggregate sign area permitted for each establishment.

(iii) Where a sign consists of individual letters or symbols attached, painted, or applied directly to a building, wall, canopy, or window, the area shall be considered to be the smallest rectangle encompassing all the letters and symbols.

(iv) In computing the area of a double-faced sign, only one (1) side shall be considered if both faces are identical. Notwithstanding the above, if the interior angle formed by the two (2) faces of the double-faced sign is greater than forty-five (45) degrees, then both sides of such sign shall be considered in calculating the sign area.

(v) The maximum allowable area of a sign shall include all permanent signs attached, painted, or applied to a building façade. If an establishment has walls fronting on two (2) or more streets, the sign area for each street shall be computed separately.

(vi) The maximum allowable area of a free-standing sign shall not include any portion of a sign that is used solely for the purpose of displaying the grades and prices of motor fuels sold on premises except to the extent such area exceeds fifteen (15) square feet.

461.8 Signs in Residential and Rural Lands Zoning Districts.

a) Allowed signs: In addition to exempt signs, only the following on-premise signs shall be permitted in any Residential and Rural districts:

(i) Organization Signs. Parallel, projecting and free-standing signs representing governmental educational or religious organizations provided that the total area of all signs for any individual use shall not exceed twenty (20) square feet.

(ii) Agricultural Signs. Up to four (4) signs advertising for sale agricultural produce raised on the premises, not to exceed eight (8) square feet in area.

(iii) Non-residential Building Sign. One (1) sign identifying a non-residential building, use, or activity, provided the area of such sign shall not exceed twenty (20) square feet.

b) Restrictions on residential and rural district signs: The following restrictions regarding type and placement of signs pertain to all signs in all Residential and Rural districts:

(i) No sign shall be located within three (3) feet of any sidewalk or its vertical plane, except where such sign is attached to the face of the building at least eight (8) feet above the sidewalk and protruding no more than six (6) inches from the face of the building.

461.9 Sign Location, Design, Safety and Maintenance.

a) Obstruction. No sign shall be placed in such a way as to impair public safety or a driver's necessary view along a highway or so that the sign prevents clear and unobstructed views between a highway and the access area for a driveway or other highway or between a highway and a public sidewalk. No sign shall be placed to prevent safe access to and from any door, window or fire escape.

b) Setbacks. No portion of any free-standing sign shall be located any closer to any property line than fifty (50) percent of the required yard setback for the district in which it is located.

c) All signs shall be constructed, supported and monitored so as to withstand a wind pressure of thirty (30) lbs per square foot.

d) All signs supporting materials and mounts shall be maintained in a safe and well-kept condition.

461.10 Sign Lighting. In addition to the outdoor lighting requirements, the following requirements shall pertain to the lighting of all signs:

a) Signs shall be illuminated such that the illumination does not create glare or unduly illuminate the surrounding area.

b) Externally illuminated signs:

(i) Light fixtures used to illuminate signs shall be top mounted and shall direct the light downward toward the sign.

(ii) Ground mounted lights shall not be used unless under special circumstances where conditions of (i) above cannot be met and only if approved by the DRB.

(iii) Light fixtures shall employ the use of grids, hoods, or baffles, aimed so that light is directed only onto the sign face. The light source or reflective surfaces of the fixtures shall not be visible from the public way or surrounding properties.

c) Backlit signs:

(i) Backlit (i.e. reverse channel illumination) signs shall light lettering and logo and other related sign elements only, and lighting design shall be such that no excess light spill or glare results from the back lighting fixtures and/or source. The backlit sign shall not increase the measurable vertical light level at a point twenty (20) feet distant from the sign in any direction.

(ii) In addition to other permitted lamp types, neon or similar lighting may be used to illuminate backlit signs.

d) Internally illuminated signs:

(i) Internally illuminated signs shall be designed with light lettering and graphics against a dark field.

(ii) The sign cabinet shall fully enclose the light such that the light source is not visible from the exterior of the sign.

(iii) Internally illuminated signs shall be designed so that lamps produce no more than two hundred (200) initial lumens per square foot.

461.11 Design Control District Signs. Within those portions of the Design Control District that are zoned Residential or Mixed Use, commercial signs, including overhanging signs, shall be permitted only if approved by the DRB in accordance with the following:

a) Signage concept. Signs by businesses may identify their premises, or the products and services that they provide; and shall preserve and enhance the appearance of all structures in the Design Control District; preserve and enhance the appearance of public street, parks and other public properties and minimize the intrusiveness of sign structures, and visual clutter and blight and encourage an environment of economic prosperity and stability.

b) Design and criteria for approval. In approving the design of a sign the DRB shall consider the following:

(i) The sign design, configuration, color and type face which may reflect the individual character of the business being advertised but should respect the character of the building and the streetscape.

(ii) The content of the sign shall be limited to the name, address, function or activity of the business identified by the sign.

(iii) The sign may include the brand name of a product (i.e. “Ben & Jerry’s Scoop Shop”), but only when such name is integral to the business name.

(iv) "Symbol Signs" in a shape representative of the business/service conducted or offered on the premises are permissible (i.e. sign in the shape of a mortar & pestle for a drug store, or a barber pole).

c) Sign material. The material used in all signs shall comply with the following:

(i) No plastic signs are permitted. Signs are to be made of painted or varnished wood or other material approved by the DRB.

(ii) Stock signs purchased from distributors of commercial products are prohibited.

d) Supporting hardware. The supporting hardware used in all signs shall comply with the following:

(i) Have brackets which are made of painted metal.

(ii) Brackets made of threaded pipe and pipe fittings are prohibited.

e) Illumination. The illumination of signs shall comply with the following:

(i) Signs may only be illuminated by external, incandescent light sources.

(ii) All lights must be focused on the sign to eliminate undue glare for residents, pedestrians and motorists.

(iii) The installation of wire, conduit and electrical hardware shall not obscure/deface any architectural detail. Installation shall be completed so as to minimize visual clutter.

f) Placement. The placement of all signs shall comply with the following:

(i) No sign shall cover/obscure any architectural detailing or window openings.

(ii) A business shall be allowed only one (1) overhanging sign per doorway or per facade.

(iii) No overhanging sign shall exceed ten (10) square feet on each side with a maximum four (4) foot projection over the sidewalk. The bottom of the projecting sign shall be at least ten (10) feet above the sidewalk and its top shall not extend higher than whichever of the following is the lowest:

(A) Twenty-five (25) feet above grade,

(B) The sill of the first level of windows above the first story, or

(C) The lowest point of the roof

Section 462 Fences[87]

462.1 Fences Required. A private swimming pool that is installed so that the bottom of the pool is more than two (2) feet below the average grade of the surrounding ground shall be enclosed by a fence at least five (5) feet in height or other acceptable means of restricting access as approved by the DRB.[88]

462.2 Fence Permits and Applications. Unless specifically exempted by this section, all fences shall require the issuance of a zoning permit. A zoning permit application for a fence shall include the following:

a) A completed application form, signed by the property owner, along with the applicable fee;

b) A scaled drawing showing the location of the proposed fence and the appropriate boundary of the lot on which its location is proposed;

c) A scaled elevation showing the appearance of the proposed fence;

d) A description of the materials of the proposed fence.

462.3 Exempt Fences. The following types of fences shall be exempt from the requirements of this section except they must comply with Subsection 462.5.

a) Fences that are:

(i) Constructed outside of the front yard setback required for a building;

(ii) Set back at least three (3) feet from all property lines; and

(iii) No more than eight (8) feet in height.

b) Fences inside the front yard setback required for buildings that are:

(i) No more than four (4) feet in height;

(ii) At least three (3) feet from any property line; and

(iii) Do not obstruct a driver's necessary view along a highway or so as to prevent clear and unobstructed views between a highway and a public sidewalk and between a highway and the access area for a driveway or another highway.

462.4 The following fences are subject to conditional use review by the DRB:

[87] 2014 New except as otherwise identified.
[88] 2014 Adapted from 1973 Section 317.

a) A fence for any use requiring conditional use review in its zoning district;

b) A fence containing barbed wire installed more than eight (8) feet above the ground.

462.5 General Requirements and Restrictions.

a) Except in the Rural Lands Zoning Districts, no person shall use chicken wire, barbed wire, hog wire, wire fabric, or razor wire as fencing materials.

b) Except in the Rural Lands Zoning Districts, no fence shall be electrified.

c) No person shall construct a fence of wood, metal or plastic products that are designed specifically for uses other than fence construction. The administrative officer may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.

Section 463 Solar Collectors[89]

Except as regulated by the Vermont Public Service Board, solar collectors shall comply with the following:

a) Roof-mounted solar collectors located on front and side building roofs visible from the public right-of-way shall not extend more than twelve (12) inches above the peak of the roof plane where they are mounted. No portion of any such solar collector shall extend more than thirty-six (36) inches perpendicular to the point on the roof where it is mounted.

b) Ground-mounted solar collectors shall not exceed eight (8) feet in total height and shall be located within the rear yard or side yard at least ten (10) feet inside the property line and shall be screened from adjacent properties to the extent feasible.

c) All lines serving a ground-mounted solar system shall be located underground.

Section 464 Wind Turbines[90]

Except as regulated by the Vermont Public Service Board, all wind turbines shall comply with the following:

a) The wind turbine shall have a maximum output rating of fifteen (15) kilowatts.

b) The wind turbine shall be set back from property lines and roads at least two (2) times the height of the overall wind turbine as measured to the top of the blade in a vertical position. Setbacks may be reduced to one point five (1.5) times the height of the overall tower if written consent from adjacent property owners is

[89] 2014 New.
[90] 2014 New.

provided. In no case shall the minimum setback for the wind turbine be less than the zoning district minimum required setback.

c) Public access to the wind turbine shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.

d) Suitable warning signs containing a telephone number for emergency calls shall face all approaches to the system. Individual signs shall be no larger than six (6) square feet.

e) The wind turbine shall be operated in such a manner that it does not exceed the sound level limits of the Performance Standards.

f) The following measures shall be followed whenever feasible in order to minimize the visual impact of the project:

   (i) Removal of existing vegetation should be minimized.

   (ii) Any accessory buildings should be painted or otherwise visually treated to blend with the surroundings.

   (iii) The turbine should be painted with non-reflective paint to blend with the surroundings.

g) All utility connection lines serving a wind turbine system shall be located underground.

Section 465 Public Utility Substations[91]

Public Utility substations and similar utility structure, where permitted, shall comply with the following requirements:

a) The facility shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side, and rear yards.
b) A landscaped area at least twenty-five (25) feet wide shall be maintained in front, rear, and side yards.

[91] Same as 1973 Section 318.

ARTICLE V Subdivision of Land[92]

Section 501 DRB Approval

No land may be subdivided except with DRB approval. At its option, an applicant may seek DRB approval in one (1) (final) or two (2) stages (preliminary and final).

Section 502 Preliminary Subdivision

502.1 Application. Application for preliminary subdivision approval shall be made to the administrative officer on a form provided by the town for that purpose. A completed preliminary subdivision application shall include the following:

a) A statement indicating whether the applicant proposes to connect to either public or off-site water or sewer.

b) A proposed plat, which shall be twenty-four (24) inches by thirty-six (36) inches outside dimensions, prepared by a Vermont licensed land surveyor. The plat shall be clearly and legibly drawn to a scale of no more than one (1) inch equals forty (40) feet. The proposed plat must show all of the following as applicable:

   (i) Subdivision name or title, address, scales, north arrow indicating magnetic and true north, date, and legend;

   (ii) Names and addresses of the applicant, designer, and other parties to the subdivision;

   (iii) Vicinity map, drawn at a scale of one inch equals six hundred (600) feet, showing boundary lines of adjoining developed and undeveloped land within an area bounded by nearest arterial streets or other boundaries that are natural; identifying type of use and ownership of surrounding land and showing alignments of existing streets;

   (iv) Total acreage of subdivision and number of lots proposed;

   (v) Exact boundary lines of the tract by bearings and distances with such measurements tied into a permanently set or established reference point and the boundaries of contiguous properties.

   (vi) The flood elevation levels if all or some of the parcel(s) lie within a Flood-prone area.

c) An eleven (11) inch by seventeen (17) inch copy of the proposed plat as well as a digital version of the proposed plat in a form reasonably acceptable to the administrative officer.

[92] 2014 Adapted from 1974 subdivision ordinance; Amended December 27, 2005.

d) For proposed subdivisions comprising four (4) or more lots, a site plan which shall be twenty-four (24) inches by thirty-six (36) inches outside dimension drawn to scale of no more than one (1) inch equals forty (40) feet showing all of the following as applicable:

(i) Physical features such as water courses with respective buffers, wetlands with respective buffers, rock outcrops, wooded areas, slopes in excess of fifteen (15) percent, significant trees with a diameter at breast height of six (6) inches or greater, and other significant natural or cultural features, and soil boring data at locations and depths as may be reasonably required by the administrative officer or city engineer to carry out the purposes and intent of this chapter.

(ii) Existing and proposed contours at vertical intervals of not more than twenty (20) feet with elevations indicated in feet above or below a designated benchmark except where the town engineer may require further delineation of the topography.

(iii) Proposed layout including streets and alleys with proposed street names, lot lines with approximate dimensions, approximate location of proposed structures including public facilities and land to be reserved or dedicated for public use. Where only a portion of a larger parcel is being subdivided, the DRB may require a complete site plan of the entire parcel so as to examine the partial development to be sure it does not adversely affect the arrangement and continuity of the overall design. The site plan of the entire parcel shall indicate the types of land uses, densities, and vehicular accessibility.

(iv) Zoning district and overlay district boundaries of all areas shown on the site plan.

(v) An eleven (11) inch by seventeen (17) inch copy of the proposed site plan as well as a digital version of the proposed site plan in a form reasonably acceptable to the administrative officer.

502.2 Preliminary Subdivision Approval. A subdivision may be preliminarily approved with conditions, only if the DRB determines that it complies with the following criteria:

a) Protection of important natural features. The arrangement of blocks and lots shall preserve watercourses, wetlands, steep slopes, flood-prone areas, rock outcroppings, wildlife habitat and travel corridors, specimen trees and contiguous stands of forest, and other sensitive ecological and geological areas to the extent practicable.

b) Block size and arrangement. The size and arrangement of new blocks shall maintain the size and arrangement of existing neighborhood blocks within the zoning district and, where feasible, support the pattern of interconnected streets

throughout the town. Except as allowed by Article VI of this ordinance, all lots shall be sized to comply or allow compliance with the quantitative standards applicable to the zoning district where the lot is located.

c) Arrangement and size of lots. The size and arrangement of new lots shall reflect and perpetuate the existing development pattern of the surrounding neighborhood. Lots shall be created in such a way as to enable their development pursuant to the requirements of this ordinance, and ensure a clear transfer of title.

   Interior lot lines extending from a street should be perpendicular or radial to the street right-of-way line to the greatest extent feasible. Flag lots and through lots are discouraged, and shall be allowed only to the extent that topography and existing block and lot arrangement allow no suitable alternative. A minimum frontage for access of twenty (20) feet shall be required for all flag lots.

d) Connectivity of sidewalks, trails, and natural systems. The established sidewalk network shall be maintained and extended to the extent possible. Trail networks and uninterrupted corridors of green space outside of the established street grid should be maintained and extended wherever possible.

Section 503 Final Subdivision

503.1 Application. Application for final subdivision approval shall be made to the administrative officer on a form provided by the town for that purpose. For proposed subdivisions comprising four (4) or more lots final subdivision application and approval is required. The Development Review Board may waive Final Subdivision application and approval for subdivisions comprising four (4) or fewer lots, that meet district lot requirements for size and road frontage on an existing town road or highway. A completed application for final subdivision approval shall include the following:

a) Those items required to complete an application for preliminary subdivision approval.

b) For proposed subdivisions requiring the construction of roadways and/or that include sidewalks, typical cross sections of the proposed grading and specifications for roadways and sidewalks.

c) For those subdivisions that include connection with the town water supply system or a community water system serving four or more users, plans and specifications for the connecting and distribution system.

d) For those subdivisions that include the connection with the town sanitary sewage system or a community disposal system serving four or more users, plans and specifications for such connecting and collection systems.

e) For those subdivisions that are in a flood prone area assurance that such proposals meet minimum development requirements to minimize flood damage. [60.3(a)(4)(i)][93]

f) Plans and specifications for any bridges or culverts that will be required.

g) A plan showing all parcels of land proposed to be dedicated to public and a written description of the terms of such dedication.

h) Evidence of compliance with the criteria required for final subdivision approval but not required for preliminary subdivision approval.

i) Erosion and sedimentation control plan including temporary and permanent measures to meet the most current town, state and federal water quality standards.

j) Proposed street tree planting including proposed species, size, and spacing.

k) Storm water treatment and drainage analysis.

503.2 Final Subdivision Approval. A subdivision may be finally approved, with conditions, only if the DRB determines that the applicant is not in default of any obligations under this ordinance and that proposal complies with the following:

a) Those criteria required for preliminary subdivision approval.

b) The following specifications for roads.

(i) Standards. The minimum requirements for road construction as established by the select board, if any, but in no event shall all roads be constructed at least to the standards required by the State of Vermont for Class 3 highways.

(ii) Horizontal and vertical curves. No horizontal curve shall have a center line radius of less than one hundred and fifty (150) feet. For changes in grade exceeding one (1) percent, a vertical curve shall be provided ensuring a minimum sight distance of one hundred and fifty (150) feet.

(iii) Grades. Street grades shall be adequate to provide satisfactory drainage. The maximum allowable grade shall be ten (10) percent. In no case shall a grade greater than eight (8) percent be allowed at or within one hundred fifty (150) feet of an intersection. However, the DRB may authorize on a cul-de-sac street, a maximum grade not to exceed twelve (12) percent for a total distance not to exceed nine hundred (900) feet provided that a grade of not greater than eight (8) percent is permitted at or within one hundred and fifty (150) feet of an intersection. For grades in excess of eight (8)

[93] 2014 New: NLIP (FEMA) regulations 60.3(a)(4)(i)

percent, the DRB may require safety features as deemed necessary, such as guard rails and extended shoulders

(iv) Intersections. Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than sixty (60) degrees.

(v) Tangents. A tangent of at least one hundred (100) feet in length shall be introduced between reverse curves on all proposed streets.

(vi) Street jogs. Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall not be allowed.

(vii) Street maintenance. Every lot in a subdivision shall be served from a publicly dedicated road except the DRB may approve access from private roads upon a showing of suitable provisions for their maintenance.

(viii) Access road. The DRB may require the applicant to improve any access road to the subdivision to the appropriate street standards provided in these regulations if such access would otherwise be inadequate, provided that the town owns or provides the right-of-way.

(ix) Cul-de-sac. A cul-de-sac street shall not exceed twelve hundred (1,200) feet in length and shall not provide entrance to other streets. However, where the density is equal to or less than one (1) residential unit for each two (2) acres, the DRB may increase the maximum length to two thousand (2,000) feet. When there are six (6) residential units or less on cul-de-sac, the DRB may modify the pavement width requirements, provided that the applicant provides adequate off-street parking facilities. A turn-around shall be provided with a minimum radius of fifty (50) feet at the end of all cul-de-sacs. In the event that a proposed street and cul-de-sac is not to be completed to its permanent turn-around at the time that the street is opened, then and in that event the applicant shall provide a temporary turn-around at the temporary terminus of said cul-de-sac. No cul-de-sac street shall be designed to serve more than two hundred (200) lots including those abutting on it and those abutting on streets served by the cul-de-sac street.

c) The following standards for other features and services:

(i) Curbs, sidewalks and bicycle facilities. Curbs, sidewalks and bicycle facilities may be required by the DRB as recommended by *Complete Streets – A Guide for Vermont Communities* published in September 2012 by the Vermont Department of Health.

(ii) Water. In any subdivision having off-lot water, the existing public utility system shall be extended so as to provide, or a community system shall provide, the necessary quantity of water at acceptable pressure for fire

protection. If the applicant proposes to connect to the town water system, the DRB may require the applicant to install at the applicant's expense, except as approved by the DRB, larger transmission lines and storage and pumping facilities outside the subdivision if the water supply and pressure within the subdivision would otherwise be inadequate or to the extent the subdivision's connection to the town's water system reduces supply and pressure so that they become inadequate for any user.

(iii) Sewerage. If the subdivision is within one-half (1/2) mile of the town sewer system, the DRB may require connection to the town sewer system by the applicant. The applicant may be required by the DRB to provide or to have installed at the applicant's expense, except as approved by the DRB, larger sewer lines, pumping and other facilities, outside the subdivision if sewer service within the subdivision would otherwise be inadequate or if the subdivision connection to the town sewer system causes sewer service to be reduced so that it is inadequate for any user.

(iv) Electric and communication lines. Electric and communications distribution systems shall be underground, including services to residences and to street lights unless waived by the DRB. The applicant shall coordinate subdivision design with the utility companies to ensure adequate and suitable area for underground installations.

(v) Fire protection facilities. Fire protection facilities as reasonably required by the DRB.

(vi) Street lighting. Street lights shall be installed at the expense of applicant according to lighting and spacing standards established by the select board or as reasonably required by the DRB.

(vii) Street signs. All street signs and posts shall be provided and installed by the town at expense of the applicant.

(viii) Removal of spring and surface water. The applicant may be required by the DRB to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements benefitting the town of appropriate width.

(ix) Drainage structure to accommodate potential development. Culverts or other drainage facilities shall, in each case, be large enough to accommodate potential run-off from the entire subdivision including all land draining into the subdivision.

(x) Responsibility for drainage downstream. Where the DRB reasonably anticipates that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility so that

there will be damage to private property or an increase in the expenditure of public funds, the DRB shall not approve the subdivision until the applicant and the select board agree to share the cost of the necessary improvement required. The town's share shall be based upon the portion of run-off which the developed area downstream from the applicant's subdivision contributes to the necessary improvement, except that there shall be credited to the town's share that portion of the need which can be met by existing facilities.

(xi) Other drainage. In design of the drainage system, natural waterways shall be utilized to the full extent feasible. There shall be at least eighteen (18) inches of cover over culverts crossing roadways and for culverts over fifteen (15) inches in diameter the public works director may require additional depth of cover. The minimum size culvert installed shall be twelve (12) inches. Where catch basins are installed the street shall have curbing unless the DRB shall approve an alternate. Open roadside drainage ditches in excess of a five (5) percent grade shall be paved with stone or asphalt as required by the DRB. All culverts shall have headers. Header design shall be approved by the DRB. Wherever possible natural drainage courses shall be extended across a road and not diverted to roadside drainage ditches.

(xii) Street names. Street names shall be as approved by the select board.

d) The following standards for open space and site preservation:

(i) Land with adequate access to and from public streets, shall be reserved for open space and recreation area. Such land shall be either deeded to the town or reserved for the common use of all property owners by covenant in the deed as approved by the DRB. All area shall be of reasonable size, slope and character for neighborhood playground or other recreational uses, including open space. When the proposed density is two (2) residential units or less for each acre of land within the subdivision ten (10) percent of the area of the entire subdivision shall be reserved for open space and recreation area. When the proposed density is greater than two (2) residential units for each acre of land within the subdivision fifteen (15) percent of the area of the entire subdivision shall be reserved for open space and recreation area.

(ii) To the extent the DRB reasonably determines that due to the size, topography, or location of the subdivision, land for park, playground or other recreation purposes cannot be properly located therein, the applicant will pay to the town a sum of money in an amount to be determined by the select board. This cash payment shall be remitted to the town for either land acquisition or development of public land for recreational purposes for the benefit of the residents of the subdivision and the town.

(iii) The DRB may also require the filing of a written agreement between the applicant and the select board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

e) The following standards for site preservation and landscaping:

(i) Existing features. Existing features which would add value to the subdivision, such as trees, watercourses and falls, brooks, historic spots and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design.

(ii) Natural cover. Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil. After application for approval has been submitted to the Board, no topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these regulations.

(iii) Erosion and sediment control. Erosion and sediment shall be controlled according to standards specified by the State of Vermont Agency of Natural Resources for projects disturbing more than one (1) acre of ground.

f) The following standards for development in a flood plain, if applicable. When a development is proposed in any area identified as an area of special flood hazard on the "Flood Insurance Rate Map" and the "Floodway Map" accompanying the Flood Insurance Study for the Town of St. Johnsbury, Vermont dated July 3, 1986, and now administered by the Federal Emergency Management Agency (FEMA), which are hereby adopted by reference and declared to be part of these ordinances, then the DRB shall require the applicant to provide:

(i) Evidence that such application minimizes flood damage.

(ii) Evidence that public utilities and facilities will be constructed so as to minimize flood damage.

(iii) Evidence that adequate drainage will be provided.

(iv) Evidence of base flood elevation data for any subdivision application greater than fifty (50) lots.

Section 504 Security for Completion of Improvements

If the DRB grants final subdivision approval of the Subdivision Plat:

a) In an amount set by the DRB the applicant shall either file with the town clerk a certified check to cover the full cost of the required improvements or the applicant shall file with the town clerk a performance bond to cover the full cost of required improvements. Any such bond shall be satisfactory to the select board and town attorney as to form, sufficiency, manner of execution and surety. A period of one (1) year (or such other period as the DRB may determine appropriate, not to exceed three (3) years) shall be set forth in the bond within which required improvements must be completed. The certified check or bond shall include an amount required for recreation land or improvements as specified in this ordinance; or

b) The applicant shall complete all required improvements to the satisfaction of the town engineer designated by the town manager for the project. For any required improvements not so completed the applicant shall file with the town clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the town engineer. Any such bond shall be satisfactory to the select board and town attorney as to form, sufficiency, manner of execution, and surety.

Section 505 Plats

Approved subdivision plats must be recorded as provided by 24 V.S.A. § 4463(b).

Note: 24 V.S.A. § 4463(b) provides as follows:

(b) Plat; record. The approval of the appropriate municipal panel shall expire 180 days from that approval or certification unless, within that 180-day period, that plat shall have been duly filed or recorded in the office of the clerk of the municipality. After an approved plat or certification by the clerk is filed, no expiration of that approval or certification shall be applicable.

Section 506 Modification of Design Improvements

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the town engineer designated by the town engineer for the project that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the town engineer may authorize modifications provided these modifications are within the spirit and intent of the DRB's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the DRB. The town engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the DRB at its next regular meeting.

Section 507 Inspection of Improvements

At least five (5) days prior to commencing construction of required improvements the applicant shall pay to the administrative officer an inspection fee equal to three (3) percent of the cost of the proposed improvements as estimated by the town engineer designated by the town manager for the project, or the actual cost of the proposed improvements to be owned by or dedicated to the town as estimated by such engineer, or the actual cost of inspection, whichever is less, payable by check to the town stating the purpose of the fee; and shall notify the select board in writing of the time when he proposes to commence construction of such improvements so that the select board can cause inspection to be made to assure that all town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the DRB.

Section 508 Proper Installation of Improvements

If the town engineer designated by the town manager for the project shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, he shall so report to the select board, administrative officer and the DRB. The select board then shall notify the applicant and, if necessary, the bonding company, and take all necessary steps to preserve the town's rights under the bond.

Section 509 Maintenance of Improvements

The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the select board. The applicant shall be required to file a maintenance bond or an irrevocable letter of credit with the select board, prior to dedication, in an amount considered adequate by the town engineer designated by the town manager for the project and in a form satisfactory to the select board and town attorney in order to assure the satisfactory condition of the required improvements for a period not to exceed four (4) years after the date of their acceptance by the DRB.

Section 510 Public Acceptance of Streets, Recreation Areas

510.1 The approval by the DRB of a plat shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other open space shown on such Subdivision Plat.

510.2 When a school site, park, playground or other recreation area shall have been shown on the plat, the approval of such plat shall not constitute an acceptance of ownership by the town of such area.

ARTICLE VI Planned Residential and Unit Developments

As enabled by 24 V.S.A. § 4417, the DRB may waive the dimensional requirements governing lot area, lot dimension, lot frontage and building coverage and the dimensional limitations for structures governing front yard setback, side yard setback and rear yard setback of this ordinance as part of a planned unit development ("PUD") or a planned residential development ("PRD"), or both, subject to the conditions set forth in this article.

Section 601 General Conditions

a) A PRD shall include only residential uses, home occupations, Class III childcare centers and community care homes. A PRD may be permitted as a conditional use in all zoning districts where dwelling units are allowed.

b) A PUD, including any permitted or conditional uses in the zoning district in which it is located, may be conditionally approved in the MU, COM, IND and HS zoning districts. Multiple principle structures and/or uses on a lot, or multiple ownership of a single structure may be allowed.

c) The total number of units in the PUD or PRD shall not exceed the number that would be permitted if the land were subdivided into lots in conformance with the zoning regulations for the zoning districts in which such land is located.

Section 602 Applications

Applications for PUD or PRD approval shall be made to the administrative officer on forms provided by the town for site plan or subdivision approval as applicable.

Section 603 Special Review Criteria

In addition to the general criteria required for conditional use approval, a PUD or PRD may be approved by the DRB with conditions and only if it complies with the following:

a) Those criteria required for site plan and/or subdivision approval as applicable.

b) The PUD or PRD application does not conflict with any specific requirements of the town plan.

c) The PUD or PRD is an effective and unified treatment of the development possibilities of the project site. To the extent feasible, the development plan shall provide for protection of the following features: streams, stream banks, and water bodies, aquifer recharge areas, slopes greater than thirty (30) percent, wetlands, soils unsuitable for development, agricultural lands, meadow lands, productive forest lands, historic features, unique natural features as identified in the town plan, wildlife habitat, high elevations, ridge tops, and floodplains.

ARTICLE VII Definitions

Certain words are defined for the purpose of this ordinance as follows:

A

Accessory Dwelling Unit: An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following: The property has sufficient wastewater capacity; The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling; Applicable setback, coverage, and parking requirements specified in the bylaws are met. 24 VSA §4412 (E)

Accessory structure or use: A use or detached structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. An accessory structure shall not exceed, in area, fifty (50) percent of the principal structure. An accessory use shall not exceed, in area, fifty (50) percent of the principal use. A residential accessory use or structure is incidental and subordinate to a residential use or structure. A commercial accessory use is incidental and subordinate to a commercial structure or use.

Adult entertainment: Any nightclub, bar or other business establishment, whether or not serving alcoholic beverages, which features live performances by topless and/or bottomless dancers, strippers or similar entertainers, or which as a regular and substantial course of conduct offers, sells or distributes adult oriented merchandise or sexually oriented merchandise, characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities.

Agriculture: The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, equines, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site production of fuel or power from agricultural products or waste principally produced on the farm.

Animal hospital: A place, including a veterinarian's office, where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Area of shallow flooding: A designated AO or AH zone on the St. Johnsbury Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by **ponding** or sheet flow.

Artist work space: Space used for the creation, display and sale of artistic work and crafts and classes concerning such.

Assisted living facility: A building (1) containing private residential areas, each for up to two (2) persons, (2) where assistance with daily living functions is provided for those who need it.

Auto service station: Any area of land, including structures thereon, that is used or designed to be used for the retail supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles.

B

Bank: An institution for receiving, lending, exchanging, and safe guarding money and, in some cases, issuing notes and transacting of other financial business.

Banner: A temporary sign of flexible substrate on which copy or graphics may be displayed.

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

Bed and breakfast: A dwelling in which accessory residential use is to support overnight accommodations, with a morning meal, to provide the same to the general public for compensation such that at least eighty-five (85) percent of the compensation is subject to the Vermont rooms and meals tax.

Blast furnace: A furnace in which combustion is intensified by a blast of air.

Boarding house: (See: Lodging House) A residence occupied by more than five (5) people who are not related in which rooms are rented with or without meals to guests for compensation.

Building: A structure with a roof.

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

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

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

C

Campground: Land upon which two (2) or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

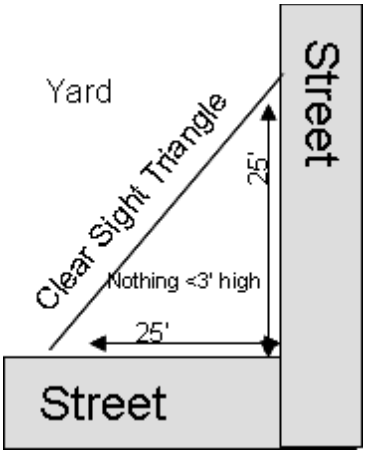
Car wash: Any building or premises or portions thereof used for washing automobiles. Such buildings may contain a chain conveyor or other method of moving cars along, and automatic or semi-automatic application of cleaner, brushes, rinse water, and heat for drying.

Cemetery: Property used for the interning of the dead.

Child care: A home or facility where the owner or operator is to be licensed or registered by the state for child care. Child care homes accommodating more than twelve (12) full-time children are hereby designated Class I. Child care homes accommodating seven (7) to twelve (12) full-time children are hereby designated Class II. Child care homes accommodating no more than six (6) full-time children and four (4) part-time children, as defined in subdivision 33 VSA §4902(3)(A), are hereby designated Class III. Child care homes accommodating six (6) or fewer full-time children are hereby designated a permitted one (1) family residential use. (24 VSA §4412)

Church: A building which is erected or converted for use as a church or similar house of worship, where services are regularly convened which is used primarily for religious worship and schooling and which a reasonable person would conclude is a church by reason of design, signs, use or other architectural features.

Clear Sight Triangle: Visibility of oncoming pedestrian and vehicular traffic requires a setback distance that when measured creates a triangle. A property owner shall avoid placing anything within this triangle that can obstruct clear view of traffic on the street, sidewalk, or driveway.



Club: Association of a civic, fraternal or social character in which public access or use is restricted. Includes YMCA, YWCA, YMHA, fraternity, sorority, lodge, religious and similar clubs which may have dormitory accommodation.

Commercial accessory use: The use by the resident owner of a minor portion of a structure or lot, but in no event to exceed more than one (1) acre of land, in conjunction with a business whose principal activity is conducted off site.

Commercial horse farm: A farm that derives over one-fourth (1/4) of its income from the sale of equines or their services or from the boarding of equines (see also Riding Academy).

Commercial use: Any use carried out for pecuniary gain that involves the sale of products and/or services to the general public.

Commercial outdoor advertising sign: A permanent off-premise sign erected, maintained or used in the outdoor environment for the purpose of providing copy area for commercial or non-commercial messages may be allowed only in conformance with State Law.

Community care home: A facility licensed by the Vermont Department of Health, or similar state agency, as a Level III or IV residential care home.

Community center: A building used for the recreational, social, educational, and cultural activities, usually owned and operated by a public or nonprofit group or agency.

Composting facility: A building or site used to promote the natural oxidation of wastes by encouraging aerobic microbial activity.

Construction: ***see land development***

Contractor: Any person who agrees to furnish materials or perform services at a specified price, especially for construction.

Contractor's yard: Any part of a lot which is used for the temporary or permanent storage of equipment and/or materials necessary or common for a contractor's business.

Controlled Substance Dispensary: A facility that sells or provides medical marijuana, methadone or any Schedule 1 controlled substance as defined in the Controlled Substances Act (Title II of the Comprehensive Drug Abuse Prevention Control Act of 1970).

Convenience store: A retail store, including a mini-mart, specializing in a limited line of high volume grocery, beverage, and related items and emphasizing fast service including pumps for the sale of motor vehicle fuels.

Corner: The space between intersecting streets, the intersection of a street and an alley, the intersection of a driveway and an alley or the intersection of a street and a driveway.

Cultural facilities: A building or land used for displaying, performing or teaching about the arts.

D

Development: See Land Development

Dormitory: A building principally used to provide rooms for sleeping, usually without private baths, including a fraternity, sorority, nurses' home, rooms for public, private, college and secondary school students.

Drive-in restaurant: Any place or premises, including a refreshment stand, used for sale, dispensing or serving food, refreshments or beverages to people in automobiles, including those establishments where customers may also serve themselves and may eat or drink the food, refreshments or beverages on the premises.

Drive-in theater: An open lot used with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

Dwelling unit: One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. It shall include prefabricated, modular units and mobile homes, but shall not include motel, hotel, or similar structures.

E

Earth resources removal Land from which sand, gravel, stone or other similar material is quarried and processed for sale as a raw material.

Easement: The authorization of a property owner, for the use by another, and for a specified purpose, of any designated part of his property.

Employee farm dwelling: A one (1) family dwelling, two (2) family dwelling or mobile home occupied by full-time employees on an operating farm on which the farm dwelling is located.

Essential services: The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection therewith and including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

Extended care facility: A facility which provides, on a regular basis, health related care and services to individuals and the elderly who do not require the degree of care and treatment which a hospital is designed to provide, but who, because of their mental or physical, condition, require care, rehabilitation and services (above the level of room and board) which can be made available to them only through institutional facilities such as these. Compare: assisted living facilities, Residential Care Home.

F

Family: One (1) or more persons occupying a single dwelling unit, provided that unless all members are legally related no such family shall contain over five (5) persons, but further provided that domestic servants and farm workers employed on the premises may be housed on the premises without being counted as a family or families.

fc: Foot-candle: A unit of illuminance on a surface that is everywhere one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.

Fence: A barrier, including a wall or a retaining wall, which interferes with passage.

Flag lot: A lot that is shaped like an extended flag with a narrow strip providing access to a street and the bulk of the lot having no frontage.

Flood hazard area:, The land subject to flooding from a base flood. "Base flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year. Further with respect to flood and other hazard area regulation pursuant to 10 V.S.A. §753, Chapter 19, the following terms shall have the following meanings:

a. **Base Flood Elevation**:

b. **Floatable:** Objects with specific gravity less than one (1).

c. **Flood Insurance Rate Map:** [FIRM] Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs), and the risk premium zones applicable to the community.

d. **Floodway:** The channel of a river or other watercourse and the adjacent land that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than one (1) foot.

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

f. **Substantial Improvement:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged, and is being restored before the damage occurred. However the term does not include either of the following: (1) any project or improvement or a structure to comply with the existing state or local health, sanitary or safety code specifications that 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.

g. **Substantial Damage**. Damage of any origin sustained by a building whereby the cost of restoring the building to its before-damaged condition would equal or exceed 50 percent of the market value of the building before the damage occurred.

Forestry: Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products.

Free-standing retail stand: A structure that is not attached to another structure that is used exclusively for the sale of material or agricultural goods.

Free-standing sign: A sign principally supported by one (1) or more columns, poles, or braces placed in or upon the ground.

Funeral home: A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith.

G

Gross floor area: The floor area of space in a building that is designed for tenant occupancy or use, including basements, utility and furnace rooms, mezzanines, and upper floors, if any; expressed in square feet and measured from the outside side wall of any building.

H

Hazardous Materials: Highly flammable liquids or gasses (including, without limitation, propane) or other inherently dangerous good, such as fireworks or explosives.

Health training facility: A facility that provides instruction for the health care providers, administrators and trainees.

Hospital: A building where the sick or injured are given medical care, including a sanitarium, clinic, and any other place for the diagnosis and treatment of human ailments.

Hot-mix plant: A manufacturing facility used to produce asphalt paving material for the paving of roads, streets, parking lots, sidewalks and other areas that must have hard flat surface.

Hotel: (A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, and recreation facilities. Such facilities may also include one (1) dwelling unit for the owner or manager.

I

IESNA: Illuminating Engineering Society of North America. An organization that recommends standards for the lighting industry.

Improvements and Betterments: Fixtures, alterations, installations, or additions made or acquired solely at a tenant's expense and comprising part of an insured building.

Incinerator: A furnace used to reduce the volume of a waste-to-energy plant, including hazardous waste, and a crematory.

Indoor theater: A building or room for the presentation of plays, motion pictures, or other dramatic performances.

J

Junk yard (salvage yard): Any area of land including structures used for collecting, wrecking, dismantling, storage, salvaging and sale of machinery parts or vehicles not in running condition.

K

Kennel: Any combination of structures, pens, areas or enclosures, covered or uncovered, where six (6) or more dogs and cats are kept or raised for compensation.

L

Land development: The division of a parcel into two or more parcels, any construction on land, including any that is covered even partially with water, including the demolition, construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings or other structures, of any excavation, mining, re-grading or filling, and any change in the category of use of a building, other structure, or land, or extension of use of land, or a change in intensity of such use such as adding dwelling units or the extension of other than residential activities to new areas on any lot. [§4303(10)].

Large retail store: Shop or store comprising seventy-five thousand (75,000) square feet or more or gross floor area for the sale of retail goods, personal service shop and department store; and shall exclude any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales service, trailer and mobile home sales and service, and convenience store.

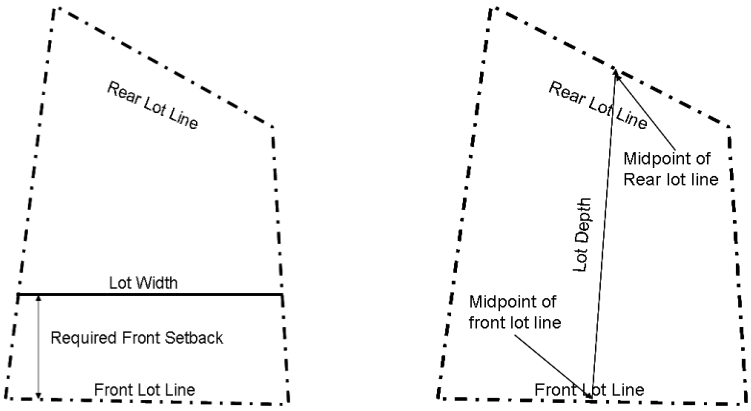
Library: A building in which literary, musical, artistic, or reference materials, including computer stations to reference such materials, are kept for use but not for sale.

Light Industrial: Uses engaged in prototype development, testing, repairing, manufacturing, assembling, packaging, storage, and/or distribution of finished or semi-finished products conducted within a building, including wet labs, dry labs and/or clean rooms, and not having any noxious or hazardous character. Uses with similar characteristics of the above-listed activities, such as telecommunication hub facilities, may also be considered as light industrial uses. Incidental administrative offices and sales areas occupying less than twenty (20) percent of the gross floor area of the building are allowed.

Lodging house: (See Boarding House) A building in which the rooms are rented with or without meals to three (3) or more persons. A boarding house or a rooming house or a furnished room shall be deemed a lodging house.

Lot: A parcel of land.

Lot depth: The distance in feet between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.



Lot width: The distance in feet between straight lines connecting front and rear lot lines at each side of the lot, measured at the depth of the required front yard setback.

M

Manufactured Homes: *See* Mobile Home and Mobile Home Park

Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials, substances, into new products including the assembling of component parts and the blending of materials such as lubricating, oils plastics, resins, or liquors.

Materials recovery facility (MRF): **(See Recycling Center)** A facility designed to remove various materials from the waste stream whether located in a building or out in the open space.

Maximum number of dwelling units: The total allowed housing units that may be located on a lot is determined by dividing the acreage of the lot in question by the "minimum lot area per family" provision applicable to a lot as set forth in such table for the housing district as determined by whether water and sewer are on the lot or off the lot. In all cases, the result of such division shall be rounded up to the nearest whole number.

Medical office:[94] A medical facility in which one or more licensed medical doctors (e.g.: MD, DDS, or DMD), usually receive and treat patients. Doctors' offices are the primary place where ambulatory care is given, and are often the first place that a sick person would go for care, except in emergencies, in which case they would go to an emergency room or hospital for immediate treatment.

Medical Laboratory: [95] A medical facility (Level I, II, III, or IV) equipped for experimental study in a science or for testing and analysis where tests are done on clinical specimens in order to get information about the health of a patient as pertaining to the diagnosis, treatment, and prevention of disease. A

[94] Amended July 13, 2015. No petitions were filed.
[95] Approved July 13, 2015. No petitions were filed.

medical laboratory is a place that is equipped with different instruments, equipment and chemicals (reagents), etc., for performing experimental works, research activities and investigative procedures.

1. **Basic Laboratory Level I:** The simplest kind and adequate for work with biological specimens and organisms which have low risk to the individual laboratory personnel as well as to the members of the community.
2. **Basic Laboratory Level II:** Suitable for work with organisms that predispose to moderate risk to the laboratory worker and a limited risk to the members of the community. Such organisms are categorized under Risk Group II by The World Health Organization (WHO). They can cause serious human diseases but not serious hazards due to the availability of effective preventive measures and treatment. Such laboratory should be clean, provide enough space, have adequate sanitary facilities and equipped with autoclave.
3. **Containment Laboratory (Level III):** More advanced and is used for work with infectious organisms that present a high risk to the laboratory personnel but a lower risk to the community. Such organisms are categorized under Risk Group III by WHO. The principle is to remove from the basic laboratory those organisms and activities which are particularly hazardous. They are easily transmitted through airborne, ingestion of contaminated food or water and parenterally. Such laboratory should be a separate room with controlled access by authorized staff.
4. **Maximum Containment Laboratory (Level IV):** Intended for work with viruses, which predispose to a high risk for both laboratory personnel and the community. Such organisms are categorized under Risk Group IV by WHO. Most of these organisms cause serious disease and are readily transmitted from one person to another. These laboratories are usually a separate building with strictly controlled access.

Mobile home: Mobile home means a prefabricated dwelling unit which: (a) is designed for long term and continuous residential occupancy; (b) is designed to be moved on wheels, as a whole or in sections; (c) on arrival at the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure; and (d) meets all other criteria and standards established by rule of the appropriate state agency for distinguishing mobile homes from other types of residential units.

Mobile Home Park or subdivision: Land on which two (2) or more mobile homes are parked and occupied for living purposes.

Motel: Building containing rooms which are rented as a series of sleeping units usually accessed from the outside for automobile transients, each sleeping units consisting of at least a bedroom and bathroom. Such facilities may also include a single dwelling unit for the owner or manager.

Motor home: Any vehicle meeting all of the following requirements:

(a) Is built on a single chassis;

(b) Is four hundred (400) square feet or less when measured at the largest horizontal projections;

(c) Is designed to be self-propelled;

(d) Is designed primarily to be temporary living quarters for recreational, camping, travel, or seasonal use.

Motor vehicle sales and repair facility: Enclosed establishment for the display, sale and repair of new and used motor vehicles, trailers, mobile homes, and boats without retail sale of gasoline or oil except as incidental to the repair facility.

Multi-family dwelling: A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Municipal use: Activity or use carried on or operated by or for the town.

N

Neighborhood commercial facility: Any building that is compatible and cohesive with the neighboring area, comprises multiple stories and not more than five thousand (5,000) square feet in gross floor area intended principally to serve the neighborhood in which it is located and may include commercial facilities designed to serve an area beyond the neighborhood. Examples include, but are not limited to: grocery, general, newspaper or drug store or retail service establishment.

Newspaper and job printing: Any business involved in the production of newspapers, magazines, books, pamphlets, or other materials where images and/or text is produced on paper or other materials using ink and a press or other machinery

Nonconforming structure: A structure or part of a structure that does not conform to a section of this ordinance but was otherwise in conformance with this ordinance prior to the enactment of such sections.

Nonconforming use: A use of land that does not conform to any section of this ordinance that was otherwise in conformance with this ordinance prior to the enactment of that section.

Non-residential use: All uses of buildings, structures, or land except one (1) family dwellings, two (2) family dwellings and multi-family dwellings.

Nursery: Buildings, including greenhouse, structures and gardens where plants are grown for sale, transplanting, or experimentation and the sale of accessory retail products associated therewith.

Nursing home: A facility licensed by the Vermont Department of Health, or similar state agency, as a Level I or II residential care home.

O

Office: Place where the business of a commercial, industrial, service or professional organization is transacted.

Official Submittal Date: The time of submission of the Subdivision Plan considered to be the date of the regular monthly meeting of the Development Review Board following the submission of the application for the Plat approval to the Secretary of the Development Review Board,

complete and accompanied by the required fee and all data required in Article V, of these regulations as long as such submission occurred at least ten (10) days prior to such regular meetings.

Off-lot water or sewer: The providing of water from a source or the disposal of the sewage not located on the lot on which is located the building for which these utilities are provided.

On-lot water or sewer: The providing of water from a source such as a drilled well or the disposal of the sewage by such means as septic and drainage field located on the same lot as the building these utilities serve.

One (1) family dwelling: A detached residential dwelling unit designed for and occupied by one (1) family only.

Outdoor light fixture: An electronically powered illuminating device containing a total light source of more than one thousand eight hundred (1,800) initial lumens per fixture or any spot or flood luminaire with a reflector contained in the lamp component such as a parabolic aluminized reflector (PAR) lamp, of more than nine hundred (900) initial lumens, which is permanently installed outdoors, including but not limited to, devices used to illuminate any site, architectural structure, or sign.

Outdoor wood-fired furnace, boiler, or stove: A structure excluding a structure when used to burn wood pellets that:

(a) Is designed, intended, or used to provide heat and/or hot water to any residence or other structure; and

(b) Operates by the burning of wood; and

(c) Is not located within a structure used for human or animal habitation.

Overlay: The St. Johnsbury Zoning Map provides information which is superimposed over the existing districts to outline such areas as Design Control, Water and Sewer locations, and other pertinent information as required by the Planning Commission (transportation, etc.).

P

Parallel Sign: A sign that is mounted within one (1) foot of the wall of any building or parallel to the plane of any wall and not more than one (1) foot outside such plane.

Pellet: A rounded or spherical body with no dimension greater than one (1) inch.

Performance Bond: A surety bond issued by an insurance company or a bank to guarantee satisfactory completion of a project by a contractor.

Person: An individual, a corporation, a limited liability company, a partnership, an association and any other incorporated or unincorporated organization or group.

PRD: A planned residential development subject to Article VI hereof.

Primary street: A street or road providing through access for an average of five hundred (500) or more cars per day.

Private swimming pool: A pool of water located outdoors for swimming or bathing appurtenant to a residence and used only by the occupants of the residence and their guests without compensation.

Projecting Sign: A sign that extends more than one (1) foot from the side of a building on which it is mounted.

Public: Not restricted; available to or for the general population.

Public building or facility: A building or facility owned, used and controlled for public purposes by any department or branch of governments, state, county or municipal.

PUD: A planned unit development subject to Article VI hereof.

R

Recreation facility: Indoor or outdoor building, structure or land principally used for activity, exercise or sport including seating for observation including swimming pools, water slides, beaches, playgrounds, ball fields, tennis courts, ski hills and jumps, picnic areas, campfires.

Recycling center: An area of land including structures used to separate and process for reuse material that has been extracted from the waste stream.

Rehabilitation center: A facility that provides short-term, primarily in-patient care treatment and/or rehabilitation service to persons recovering from mental or physical illness or injury who do not require continued hospitalization but do require medical or psychiatric treatment.

Rendering plant: A facility used for reducing, melting, coating or converting materials by heating.

Renewable energy resources: Energy available for collection, or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat and geothermal sources.

Research or testing laboratory: An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

Residential Care Home:[96] A place, however named, excluding a licensed foster care home, which provides for profit or otherwise, room, board, and personal care to three or more residents

[96] Approved September 15, 2015. No petitions were filed.

unrelated to the licensee. These include Level I, II, III, and IV facilities as licensed by the State of Vermont.

1. Nursing Home: A Level I or II Residential Care Home.
2. Level III Community Care Home: A Residential Care Home licensed and required to provide room, board, personal care, general supervision, medication management, and nursing overview.
3. Level IV Community Care Home: A Residential Care Home licensed and required to provide room, board, personal care, general supervision, and medication management.

Residential use: Includes one (1) family dwelling, two (2) family dwelling and multi-family dwelling.

Restaurant: **(See Restaurant/Bar)** An eating establishment not licensed to serve alcohol.

Restaurant/Bar: Eating and drinking establishments serving the general public

Retail service: Establishments providing services or entertainment, as opposed to products, to the general public, including finance, real estate and insurance, photography studios, hair care and grooming services, amusements and recreation services, health, educational and social services, or dental or eye care offices.

Retail store: Shop and store comprising twenty-five thousand (25,000) square feet or less of gross floor area for the sale of retail goods, personal service shop and department store; and shall exclude any drive-up service, temporary stands or vehicles used by street vendors, gasoline service and motor vehicle repair service, new and used car sales service, trailer and mobile home sales and service, and convenience store.

S

Sandwich board (A-frame; V-sign): A portable sign that is portable and may be removed during non-business hours containing two (2) faces of equal size not to exceed eight (8) square feet per side.

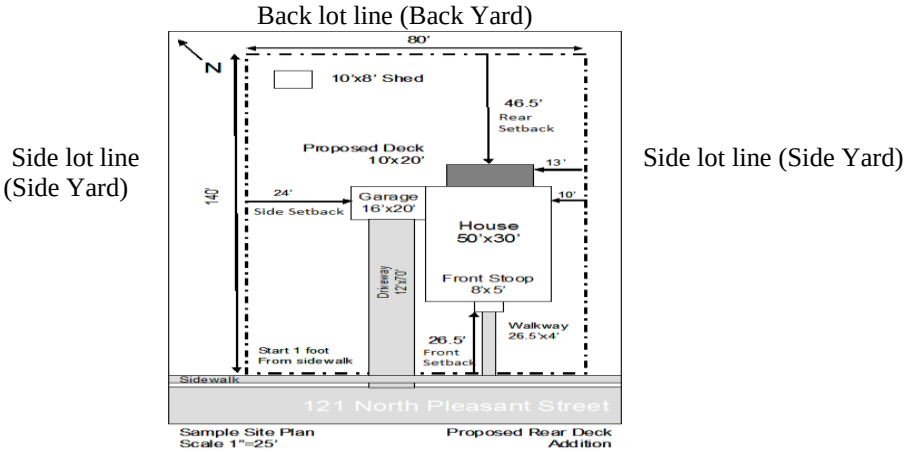
Sanitary landfill: Land that is set aside and developed pursuant to 10 V.S.A., Chapter 159 for the disposal of municipal solid waste but not hazardous waste.

School: Includes areas for campuses, athletic activities, recreation activities, and buildings for academic and instructional purposes.

Secure residential facility: A prison, jail or other facility for the detention of criminal offenders or alleged criminal offenders, or a residential facility used for mental health treatment and rehabilitation.

Secondary street: A street that is not a primary street.

Setback: The nearest distance between any part of a building and a lot line.



Shielded light fixture: A light fixture with cutoff optics that allows no direct light emissions above a vertical cutoff angle of ninety (90) degrees above nadir (straight down at perfect vertical), through the light fixture's lowest light emitting part. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

Sign: Any device visible from a public place whose essential purpose and design is to convey either commercial or non-commercial messages by means of graphic presentation of alphabetic or pictorial symbols, objects or representations.

Slaughter house: A building or place where animals are butchered for food.

Smelter: A place where metals are processed by fusing or melting the ore containing the metal being processed.

Start of Construction: For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA), this is the date when the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Structure: An assembly of materials for occupancy or use including a building, mobile home or trailer, sign, wall, fence, or pavement.

Subdivision: A change in the boundaries of one (1) or more lots including a change that adds lots.

Summer camp and retreat: A parcel of land, with or without buildings, providing facilities for sleeping and eating, and usually for learning or participating in swimming, boating, handicrafts, outdoor games, etc., especially such a camp as attended by children for two (2) or more days during the summer.

Swimming pool: A pool of water twenty-four (24) inches or greater in depth either indoors or outdoors and is used for swimming or water related recreations. This also includes spas and hot tubs.

T

Taxi: The use of any land or structures including office, dispatch and waiting areas for the provision for compensation of transportation for people or packages or other freight in or on cars or boats.

Temporary Overnight Shelter:[97] A place where people experiencing homelessness stay overnight for a limited period of time. Descriptions of Temporary Overnight Shelters include:

1. Shelters that operate on a first-come, first-served basis where people must leave in the morning and have no guarantee of a bed for the next night; or
2. Shelters where people know that they have a bed for a specified period of time as defined by the managing organization (even if they leave the building every day); or
3. Shelters that provide temporary shelter due to weather conditions.

This category does not include shelters that operate only in the event of a natural disaster to accommodate large numbers of displaced residents.

Through lot: A lot that connects to two (2) generally parallel streets.

Transfer station: An area of land, including structures, used as a facility for the temporary assemblage of solid waste.

Transitional Residence:[98] A residential facility operated by a government agency or private non-profit organization that provides living accommodations to people who previously resided in a prison, a psychiatric care facility or an addiction treatment facility.

Travel trailer: Any vehicle, including a mobile home, travel trailer or camper, designed for regular travel on streets and highways, intended to provide temporary sleeping quarters for one (1) or more persons without being installed on land and permanently connected to utility services.

Trucking terminal: A lot used to park commercial trucks and/or trailers when they are not is use. This does not apply to trucks or trailers that are non-operational (junk trucks).

[97] Approved October 5, 2015. No petitions were filed.
[98] Amended October 5, 2015. No petitions were filed.

Two (2) family dwelling: A detached residential building with two (2) dwelling units.

V

Variance: A grant of relief, or allowed modification, by a participating community from the terms of its zoning regulations for a singular permit applications. A variance may be granted to a use restriction or an area restriction.

Use Variance: Most zoning ordinances specify the uses (activities) permitted within each zoning district. The ordinance, enabling statutes, or court precedents may allow the local jurisdiction to grant a variance to the use restriction when certain factors, see section 206.4 *24 V.S.A. § 4469*, are met. For instance, apartments may be prohibited in a district intended primarily for single-family homes. But it may be possible to obtain a variance for the addition of a granny apartment within a single family home.

Area Variance: An area variance would be needed to reduce, say, the minimum setback required from the front of a proposed building to the edge of a street or a variance might be granted to the minimum acreage required to build a home.

Violation: The act of breaking or disregarding the rules and regulations.

W

Waiver: Occasionally land use ordinances will allow for a waiver of specific requirements if certain conditions are met. For instance, an applicant might receive a waiver from storm water management requirements if it was determined the project would not cause adverse impacts downstream.

Waiver fee: The payment that is made for a person to "waive" or relinquish a specific right (e.g. the right to a hearing) with respect to an action of the court. For purposes of this ordinance, when a party is issued a municipal complaint ticket with a penalty fee and also a waiver fee, that party may consent to no hearing and instead pay only the designated "waiver" fee and send the payment with the ticket form in accordance with the procedures of the Judicial Bureau.

Warehouse: Facilities for the storage of furniture, household goods or other commercial goods of any nature and establishments engaged in selling merchandise to retailers and to industrial, commercial, institutional, farm or professional business users or for selling merchandise to such person or companies. This does not include facilities selling large lots at retail with or without a discount.

Water storage facility: Any facility, manmade or natural, used for the storage of drinking water, the storage of water for industrial purposes, or any other non-recreational purpose including the retention of flood waters.

Wetlands: Those areas of the town that are inundated by surface or ground water with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps,

sloughs, fens, river and lake overflows, mudflats, bogs, and ponds but excluding such areas as grow food or crops in connection with farming activities.

Wholesale distribution service (non-petroleum): Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling to, such individuals or companies. This term shall not include the wholesale distribution of petroleum products.

Wholesale distribution (petroleum products): Establishments or places of business primarily engaged in the wholesale distribution of petroleum products.

Wireless communication facilities: A wireless communications facility consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communication sources and transmitting those signals to a central switching computer that connects the mobile unit with the land-based telephone lines. The following defined terms are associated with Wireless Communication Facilities only.

(a) **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, this would be a signal strength of at least ninety (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 at the outer boundary of the area of adequate coverage, however is that location past which the signal does not regain.

(b) **Adequate capacity:** Capacity is considered adequate if the grade of service is p.05 or better for at least fifty (50) percent of the days in 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).

(c) **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 operators principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

(d) **Antenna:** A device that is attached to a communications tower or other structure for transmitting and receiving electromagnetic waves.

(e) **Antenna height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support

structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

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

(g) **Applicant:** A person who applies for a telecommunications facility. An applicant can be the telecommunications service provider, or the owner of the property.

(h) **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.

(i) **Base station:** The primary sending and receiving site in a telecommunications facility network. More than one (1) base station and/or more than one (1) variety of telecommunications provider can be located on a single tower or structure.

(j) **Bulletin 65:** Published by the FCC Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.

(k) **Camouflaged:** A Wireless Communications Facility that is designed to blend into the surrounding environment. It may be placed within an existing or proposed structure disguised or hidden by a compatible part of an existing or proposed structure, or made to resemble an architectural feature of the building or structure on which it is placed. Examples of camouflaged facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles, or artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

(l) **Cellular service:** A telecommunications service that permits customers to use wireless, mobile telephones to connect via low-powered radio transmission sites called cell sites, either to the public switchboard network or to mobile cellular phones.

(m) **Cellular telecommunications facility:** See Wireless Communication Facility.

(n) **Channel:** The segment of the radiation spectrum to or from an antenna that carries one (1) signal. An antenna may radiate on many channels simultaneously.

(o) **Co-location:** Locating wireless communication equipment from more than one (1) provider on a single site.

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

(q) **Communications equipment shelter:** A structure located at the base station designed principally to enclose equipment used in connection with telecommunications transmission.

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

(s) **Communications 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 (1) or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

(t) **Concealed:** A Wireless Communications Facility that is entirely contained within the architectural features of a building or other structure the use of which is otherwise permitted under the zoning ordinances of the town and which is not visible from outside the structure. Antennas and other components of a wireless communications facility situated within a free-standing wireless communication facility shall not be deemed concealed.

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

(v) **dBu:** Unit of measure of the electronic field strength of a signal expressed in absolute measure for describing service areas and comparing different transmitting facilities independent of the many variables (see dBm above) introduced by different receiver configurations.

(w) **Electromagnetically able:** The determination that the signal from and to the proposed new antenna will not significantly interfere with the existing signals from and to other facilities or antennas located on the same tower or structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

(x) **Facility site:** A property, or any part thereof, which is owned or leased by one (1) of more telecommunications facility(s) and where required landscaping is located.

(y) **FCC:** Federal Communications Commission.

(z) **FCC 97-303:** A report and order that sets new national standards for exposure to radio frequency emissions from FCC-regulated transmitters.

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

(bb) **GHz: GigaHem:** One billion Hertz.

(cc) **Grade of service:** A measure of the percentage of calls that are able to connect to the base station during the busiest hours of the day. Grade of service is expressed as a number, such as p.05 which means that ninety-five (95) percent of callers will connect on their first try. A lower number (for example, p.04) indicates a better grade of service.

(dd) **Hertz:** One (1) Hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one (1) cycle per second.

(ee) **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.

(ff) **Modifications of an existing facility:** Any change, or proposed change in power input or output, number of antennas, change in antenna type or model repositioning of antenna(s), change in number of channels per antenna above the maximum number approved under an existing permit.

(gg) **Modifications 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 and/or equipment.

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

(ii) **MHZ:** Megahertz, or one million (1,000,000) Hertz.

(jj) **Microwave:** Electromagnetic radiation with frequencies approaching I,00DN*IZ, including UBF, extending to infrared frequencies; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

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

(ll) **Monitoring:** The measurement, by the use of instruments in the field, or non-ionizing radiation exposure from the telecommunication facilities, towers, antennas or repeaters.

(mm) **Monitoring protocol:** The testing protocol, such as the Cobs 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 the exposure risk from telecommunications facilities.

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

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

(pp) **Personal communications services or PCS:** Digital wireless telephone technology such as portable phones, pagers, faxes and computers. Such mobile technology may allow each consumer the same telephone number wherever he or she goes. This is also known as Personal Communication Network (PCN).

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

(rr) **Pre-existing towers and antennas:** Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

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

(tt) **Radial plots (see also tiled coverage plots):** Radial plots are the result of drawing equally-spaced fines (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 the 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.

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

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

(ww) **Scenic view:** A scenic view is a wide angle or panoramic field of sight and may include natural and/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.

(xx) **Self-supporting tower:** A communications tower that is constructed without guy wires.

(yy) **Spectrum:** Relating to any transmission or reception of electromagnetic waves.

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

(aaa) **Telecommunications facility:** All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one (1) or more towers or structure(s) owned and permitted by the provider or another owner or entity.

(bbb) **Telecommunications provider:** An entity licensed by the FCC to provide telecommunications services to individuals of institutions.

(ccc) **Temporary wireless communication facility:** Any tower, pole, antenna, etc. designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

(ddd) **Tiled coverage plots (see also radial plots):** Tiled plots result from calculating the signal at the 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.

(eee) **Tower:** A vertical structure that provides telecommunications services.

(fff) **Whip antenna:** A vertical antenna that normally transmits signals in three hundred sixty (360) degrees. Whip antennas are typically cylindrical in shape,

narrow (less than six (6) inches in diameter) and long (often measuring eighteen (18) inches in height or more). Also called omnidirectional, stick or pipe antennas.

(ggg) **View corridor:** A three-(3)-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 three hundred sixty (360) degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Y

Yard sales: Sales, including garage sales and flea markets, to the general public of new and used items of personal property conducted upon a lot as an accessory use for not more than twelve (12) days in any one (1) calendar year. Sales carried on for more than five (5) consecutive days must secure a permit from the Zoning Administrator.

Z