

THE TOWN & VILLAGE OF SWANTON

# LAND USE & DEVELOPMENT REGULATIONS

## Zoning Bylaws & Subdivision Regulations

Adopted by the Swanton Town Selectboard & Swanton Village Trustees on June 26, 2001



**Original Effective Date: July 18, 2001**

**Modified Effective Date:**

**Current Effective Date:**

*All permits and approvals issued under prior regulations remain in effect.*



# **LAND USE & DEVELOPMENT REGULATIONS**

Reviewed & Amended

by the Swanton Planning Commission

With the Assistance of from Leonine Public Affairs

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## **ARTICLE 1: AUTHORITY & PURPOSE**

### **SECTION 1.1: ENACTMENT**

The Town of Swanton has adopted these regulations in accordance with and as authorized by the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A Chapter 117. All statutory references in these regulations refer to the title and sections in effect on the effective date of these regulations. These regulations shall be known and cited as the “**Land Use and Development Regulations for the Town and Village of Swanton.**”

### **SECTION 1.2: PURPOSE**

These regulations implement the goals and policies of the Swanton Municipal Plan and the Vermont Planning and Development Act. They are intended to:

- (1) Provide for orderly growth and coordinated development in the Town and Village of Swanton;
- (2) Protect public health, safety and welfare;
- (4) Allow for housing and economic development that meets the needs of the community and region;
- (5) Promote approaches to land use and development that are consistent with smart growth principles as defined in these regulations;
- (6) Ensure that proposed development will be adequately and efficiently served by necessary services, facilities and infrastructure;
- (7) Maintain a rate, scale and pattern of development that will not exceed the town’s ability to provide necessary public services, facilities and infrastructure;
- (8) Protect environmental quality and conserve natural, agricultural, scenic and historic resources; and
- (9) No provisions of these regulations shall have the effect of excluding the equal treatment of housing in accordance with 24 V.S.A §§4412(1).

### **SECTION 1.3: INTERPRETATION**

These Land Use and Development Regulations for the Town and Village of Swanton shall not repeal, abrogate, or impair any other applicable land use controls (including statutes, regulations, rules, ordinances, permits, easements, deed restrictions, covenants or similar devices). However, in their interpretation and application, the provisions of these Land Use and

## ***Article 1: Authority and Purpose***

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Development Regulations for the Town and Village of Swanton shall be held to be minimum requirements, which shall take precedence over any concurrent and less restrictive controls including any potential contradictions in these regulations.

### **SECTION 1.4: AMENDMENT OR REPEAL**

These regulations and associated zoning map(s) may be amended or repealed in accordance with the requirements and procedures established by 24 V.S.A. Mandatory requirements enacted by the State of Vermont will automatically become a part of the Zoning Bylaws and Subdivision Regulations.

### **SECTION 1.5: EFFECTIVE DATE**

Upon adoption by the Town of Swanton, these regulations and any subsequent amendments will take effect in accordance with the procedures established in the Vermont Municipal and Regional Planning and Development Act.

### **SECTION 1.6: SEVERABILITY**

If any section, paragraph, sentence, clause, provision, or phrase of these Land Use and Development Regulations is held to be unconstitutional or invalid by a court of competent jurisdiction, the unaffected Land Use and Development Regulations shall remain in force, and for this purpose the provisions of the Land Use and Development Regulations are severable.

### **SECTION 1.7: REVIEW OF APPLICATIONS DURING ADOPTION AND AMENDMENTS OF BYLAWS AND SUBDIVISION REGULATIONS**

If a public notice for a first public hearing pursuant to 24 V.S.A §§4442(a) is issued under this chapter by the Selectboard with respect to the adoption or amendment of a bylaw, or an amendment to an ordinance adopted under prior enabling laws, the Town of Swanton Zoning Administrator (ZA), for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed bylaw or amendment and applicable existing bylaws and ordinances. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under existing bylaws and ordinances. An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing bylaws and ordinances, upon request of the applicant. Any determination by the Zoning Administrator under this section shall be subject to appeal as provided in 24 V.S.A §§4465.

### **1.8 LIABILITY DISCLAIMER**

## ***Article 1: Authority and Purpose***

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These regulations do not create any liability on the part of the town, its officials, agents, employees, or representatives, for alleged damages that result from reliance on these regulations or any lawful administrative action or decision taken under these regulations.

<b>TABLE 1: MUNICIPAL PERMITS &amp; APPROVALS</b>			
<b>Permit/Approval</b>	<b>Required for</b>	<b>Issued by</b>	<b>Refer to</b>
<b>Zoning Regulations</b>			
Zoning Permit [§4449]	All land development, as defined in Article 10, including signs, conversions and changes of use, unless specifically exempted from these regulations under Section 10.1	Zoning Administrator	Section 10.1
Access approval [§4412(3)]	Development without frontage on a maintained public road or public waters	Development Review Board	Section 3.2
Site Plan Approval [§4416]	All development except for single- and two-family dwellings, unless specifically exempted	Development Review Board	Section 6.3
Conditional Use Approval [§4414(3)]	All uses classified as “conditional uses” by district, or as otherwise specified in these regulations	Development Review Board	Sections 6.4, 6.5
Variance Approval [§4469]	Requests for a variance from the provisions of these regulations	Development Review Board	Section 10.4
Planned Unit Development (PUD) Approval [§4417]	PUDs as defined in Article 10.	Development Review Board	Article 9
Certificate of Occupancy [§4449(a)(2)]	Use of a dwelling or structure constructed after the effective date of these regulations for which a zoning permit has been issued	Zoning Administrator	Section 10.2
<b>Subdivision Regulations</b>			
Subdivision Approval [§4418(1)]	All subdivisions of land, as defined in Article 10, including boundary or lot line adjustments	Development Review Board	Article 7
Sketch Plan Approval [§4418(1)]	All applications for subdivision approval	Development Review Board	Section 7.3
Preliminary Plan Approval [§4418(1)]	All applications for major subdivisions [the creation of four or more lots]	Development Review Board	Section 7.4
Final Plan Approval [Including plat approval] [§4418(1)]	All applications for the subdivision of land	Development Review Board	Section 7.5
Plat Recording [§4463]	All approved subdivisions of land, including boundary or lot line adjustments	Development Review Board	Section 7.6
Certificate of Compliance [§4449(a)(2)]	Improvements required by the Development Review Board in association with subdivision approval, prior to further land development	Zoning Administrator	Section 10.2
<b>Other Municipal Approvals</b>			
Access Approval	All development requiring access onto municipal highways	Legislative Committee	Road & Bridge Standards
Wastewater Connections	Connections to the municipal wastewater treatment system	Legislative Body	Wastewater Ordinance
Road Acceptance, Upgrade, Naming [§4463]	The naming of roads, the upgrade of municipal roads, or municipal acceptance of private development roads	Legislative Body	Local Ordinances



**ARTICLE 2: ZONING DISTRICTS OVERLAYS, AND STANDARDS**

**SECTION 2.1: ESTABLISHMENT OF ZONING DISTRICTS & OFFICIAL ZONING MAP**

**(A)** The Town and Village of Swanton is divided into the following Zoning and Overlay Districts:

<u>Shoreland District</u>	(SL)
<u>Rural District</u>	(R1)
Residential District	(R5)
Central Business District	(CB)
<u>Transitional</u> Commercial District	(TCD)
Industrial District	(IND)
Commercial District	(CD)
Travel Service Area District	(TSA)
Flood Hazard Overlay District	(FHO)
Native American Sites Overlay District	(NASO)
Southern Growth District	(SG)

**(B)** The location and boundaries of all zoning districts are established as shown on the official “Town and Village of Swanton Zoning Map,” except that the Flood Hazard Overlay District shall consist of the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753 which are hereby adopted by reference and declared to be part of these regulations. The official zoning map shall be located in the Town Clerk’s office and shall be the final authority as to the current zoning status of land and waters in the town and village.

**(C)** The official zoning map shall be identified by the signature of the Chair of the Legislative Body, as attested to by the Town Clerk, and shall bear the official seal of the municipality.

**(D)** No changes of any nature shall be made on the official map except in conformance with zoning amendment procedures and requirements set forth in the 24 V.S.A §4441 & 24 V.S.A §4442

**SECTION 2.2: INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

**(A)** Where uncertainty exists as to the location of a district boundary shown on the official zoning map and/or overlay, the following rules shall apply:

- (1) For boundaries indicated as approximately following the depth of a single lot having frontage on a street or highway, the deepest single lot shall establish the depth of the boundary along said street or highway.

## ***Article 2: Zoning Districts and District Standards***

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- (2) Boundaries indicated as approximately following property boundaries or platted lot lines shall be construed to follow such lot lines.
  - (3) Boundaries indicated as approximately following the center lines of streams or rivers shall be construed to follow such center lines.
  - (4) Boundaries indicated as approximately following the center lines of road, transportation and utility rights-of-way shall be construed to follow such center lines.
  - (5) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
  - (6) Boundaries indicated as following lake or pond shorelines shall be construed as being parallel to the normal mean lake level, which in the case of Lake Champlain is 95.5 feet above mean sea level (msl). In the event of change in the shoreline the boundary shall be construed as moving with the shoreline.
  - (7) Boundaries indicated as following elevation contours shall be construed to follow such contours.
  - (8) Boundaries indicated as parallel to or extensions of features under Subsections (A)(1)-(7) shall be so construed. Boundaries indicated as lines perpendicular to lines or features described in subsections (A)(1)-(7) shall be construed to proceed at right angles from such lines or features. Distances not specifically indicated shall be determined by the scale of the map.
  - (9) Where available (i.e., in Zones 1- A30, AE and AH) the base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the flood hazard area overlay district provisions of this bylaw. In areas where base flood elevations and floodway limits have not been provided by the NFIP (i.e., Zone A), base flood elevations and floodway information available from state or federal agencies or other sources shall be obtained and reasonably used to administer and enforce flood hazard area overlay provisions.
  - (10) The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of these regulations, shall not affect the location of such boundary line, except as otherwise noted under Subsection (C).
- (B)** When the Administrative Officer cannot determine the location of a district boundary by the scale or dimensions given on the official zoning map and associated overlays or by the above rules, the Development Review Board and/or the appropriate state official (e.g., flood hazard administrator) may be consulted prior to making the final determination. A determination by

## ***Article 2: Zoning Districts and District Standards***

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the Administrative Officer regarding the location of a district boundary may be appealed to the Development Review Board under Section 10.3.

(C) Where a district boundary line divides a lot in single ownership on or after the effective date of these regulations or of amendments thereto, the Development Review Board may permit, as a conditional use subject to conditional use review under Section 6.4, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

### **SECTION 2.3: APPLICATION OF DISTRICT STANDARDS**

(A) The standards for each district shall apply uniformly to each class of use and/or structure, unless otherwise specified in these regulations. All uses and structures must comply with all prescribed standards for the district in which they are located as set forth in **Tables 2.1 - 2.15, and as defined in Article 11**, unless otherwise permitted as a Planned Unit Development (PUD) pursuant to Article 9. Nonconforming uses and structures shall be regulated in accordance with **Section 3.8**.

(B) Overlay district standards shall be applied concurrently with the standards for underlying districts. Where overlay districts impose more restrictive standards on the use of a structure or land, the standards of the overlay district shall apply.

(C) Prescribed uses for each district are classified as “permitted,” to be reviewed in accordance with **Section 10.1**, or “conditional” to be reviewed in accordance with Section 6.4.

(D) All uses except for single and two-family dwellings and associated accessory structures and uses are also subject to site plan review in accordance with Section 6.3. Three- and Four-Unit Multi-Family in districts served by municipal water and sewer shall also be exempt from site plan review.

(E) Any use not permitted by these regulations, unless specifically exempted under Section 10.1, shall be deemed to be prohibited.

### **SECTION 2.4: DISTRICT OBJECTIVES, USES AND STANDARDS**

The following tables **(2.1 - 2.15)** set forth the stated purpose, allowable uses and specific standards for each zoning district. Table **2.16** provides a summary of dimensional requirements and allowed uses by district. Table **2.17** includes dimensional requirements for specified residential accessory structures.

## ***Article 2: Zoning Districts and District Standards***

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### **SECTION 2.4.2: SHORELAND DISTRICT**

**(A) Purpose:** The purpose of the Shoreland District is to protect the shoreline of Lake Champlain and the Missisquoi River from erosion, clearing, and hazardous development and to maintain its use for seasonal and year-round homes, open space, access to the Lake and commercial uses that support lakeshore recreational activities.

All Development in this district shall comply with the Vermont Shoreline Protection Act 10 V.S.A. § 1441.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Dwelling Unit	1. Accessory Use/Structures [to a conditional use]
2. Accessory Use/Structure [See (E)]	2. Adaptive Reuse of a Building
3. Child Care Home <sup>1</sup>	4. Bed & Breakfast
5. Group Home <sup>1</sup>	3. Boat Sales, Storage & Repair
6. Home Occupation	4. Campground
7. Public Facilities	5. Child Care Facility
8. Seasonal Dwelling	6. Contractor's Yard
9. Single-Family Dwelling	7. Conversion of Seasonal or Single-Family Dwelling <u>to new residential use.</u>
10. <u>Two-Family Dwelling</u>	8. Cottage Industry
11. Wildlife Preserve	9. Kennel
	10. Marina
	11. Mixed Use
	12. Neighborhood Store
	13. Office
	14. Place of Worship
	15. Private Club
	16. Public Facility
In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single-family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single-family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article X.	17. Recreation/Indoor
	18. Recreation/Outdoor
	19. Roadside Stand
	20. Storage Containers
	21. Value-Added Agricultural Enterprise

## ***Article 2: Zoning Districts and District Standards***

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### **(D) Dimensional Requirements** (unless otherwise specified for a particular use):

#### **Lots**

Minimum Lot Size:	1 acre
Minimum Lot Frontage:	<u>150 feet</u>
Minimum Lot Depth:	<u>150 feet</u>

#### **Buildings and Structures**

Setback, Front	50 feet
Setback, Side	<u>15 Feet</u>
Setback, Rear	<u>15 Feet</u>
Setback for Specified Accessory Structures:	Table 2.17
Setback from Lake Champlain: * (excluding docks, piers, boat ramps)	<u>100 Feet from mean water level (unless parcel size or site limitations prevent)</u>
Maximum <u>Lot</u> Coverage:	20%
Maximum Height:	35 feet or 2 ½ stories

#### **Buildings and Structures – pre-existing lots between 0.5 acres to .75 acres**

Setback, Front	40 feet
Setback, Side	<u>15 Feet</u>
Setback, Rear	<u>15 Feet</u>

#### **Buildings and Structures – pre-existing lots between 0.25 acres to .49 acres**

Setback, Front	35 feet
Setback, Side	<u>15 Feet</u>
Setback, Rear	<u>15 Feet</u>

#### **Buildings and Structures – pre-existing lots between 0.125 acres to .24 acres**

Setback, Front	35 feet
Setback, Side	15 feet
Setback, Rear	<u>15 Feet</u>

### **(E) District Requirements:**

1. Indoor recreational facilities allowed within this district are limited to recreation halls and similar indoor recreation facilities. Such facilities shall be located a minimum of 200 feet from all lot lines.
2. An accessory structure to a residential use within this district may include one boathouse for the storage of up to three pleasure boats or watercraft.
3. Temporary docks associated with residential use do not require a zoning permit.

***Article 2: Zoning Districts and District Standards***

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4. Storage containers are not allowed on the western side of Route 36 (Maquam Shore Road) and Lakewood Drive.
5. Contractor's yards are not allowed on the western side of Route 36 (Maquam Shore Road), Church Road, or Lakewood Drive, or south of Champlain Street.
6. PUDs are allowed in this zoning district subject to Article 8.

## ***Article 2: Zoning Districts and District Standards***

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### **SECTION 2.4.3: RURAL DISTRICT (R1)**

**(A) Purpose:** The purpose of the Rural District is to maintain the rural landscape by encouraging agricultural, forestry, recreation, and residences not served by municipal water and sewer, as the primary uses in the district.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Dwelling Unit	1. Accessory Use/Structures [to a conditional use]
2. Accessory Use/Structure [to a permitted use]	2. Adaptive Reuse
3. Child Care Home <sup>1</sup>	3. Agribusiness (including farm equipment sales)
4. Group Home <sup>1</sup>	4. Auction House
5. Home Occupation	5. Bed & Breakfast
6. Public Facilities	6. Campground
7. Single-Family Dwelling	7. Cemetery
8. Two-Family Dwelling	8. Child Care Facility
	9. Community Center
	10. Contractor's Yard
	11. Cottage Industry
	12. Earth Resource Extraction
	13. Garden Center
	14. Kennel
	15. Motor Vehicle Repair
	16. Outdoor Market
	17. Outdoor Venue
	18. Place of Worship
	19. Recreation/Indoor
	20. Recreation/Outdoor
	21. Roadside Stand
	22. Storage Container
In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single-family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single-family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article X.	23. Storage Facility
	24. Value-Added Agricultural Enterprise
	25. Veterinary Clinic
	26. Value-Added Agricultural Enterprise
	27. Wireless Telecommunications Facility

**(D) Dimensional Requirements** (unless otherwise specified for a particular use):

## ***Article 2: Zoning Districts and District Standards***

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### **Lots**

Minimum Lot Size:	1 acre
Minimum Lot Frontage:	<u>150 feet</u>
Minimum Lot Depth:	<u>150 feet</u>

### **Buildings and Structures**

Setback, Front	50 feet
Setback, Side	<u>25 feet</u>
Setback, Rear	<u>25 feet</u>
Setback for Specified Accessory Structures:	Table 2.17
Maximum <u>Lot</u> Coverage:	<u>20%</u>
Maximum Height:	35 feet or 2 ½ stories

### **Buildings and Structures – pre-existing lots between 0.5 acres to .75 acres**

Setback, Front	40 feet
Setback, Side	<u>15 Feet</u>
Setback, Rear	<u>15 Feet</u>

### **Buildings and Structures – pre-existing lots between 0.25 acres to .49 acres**

Setback, Front	35 feet
Setback, Side	<u>15 Feet</u>
Setback, Rear	<u>15 Feet</u>

### **Buildings and Structures – pre-existing lots between 0.125 acres to .24 acres**

Setback, Front	35 feet
Setback, Side	15 feet
Setback, Rear	<u>15 Feet</u>

### **(E) District Requirements:**

1. Indoor recreational facilities allowed within this district are limited to recreation halls and similar indoor recreation facilities. Such facilities shall be located a minimum of 200 feet from all lot lines.
2. PUDs are allowed in this zoning district subject to Article 9.



## ***Article 2: Zoning Districts and District Standards***

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### **SECTION 2.4.4: RESIDENTIAL DISTRICT**

**(A) Purpose:** The Residential District is established to allow for a mix of housing types within high density, centrally located residential neighborhoods within and near the village center and which are serviced by, or proposed to be serviced by, public water and sewer facilities; and to allow appropriate commercial and recreational uses to serve local residents without compromising the residential character of the district.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Dwelling Unit	1. Accessory Use/Structures [to a conditional use]
2. Accessory Use/Structure [to a permitted use]	2. Adaptive Reuse
3. Child Care Home <sup>1</sup>	3. Bed & Breakfast
4. Group Home <sup>1</sup>	4. Child Care Facility
5. Home Occupation	6. Community Care Facility
6. Public Facilities	7. Community Center
7. Single-Family Dwelling	8. Educational Facility [Section 4.17]
8. Small Multi-Family Dwelling (3 & 4 Unit)	9. Funeral Parlor
9. Two-Family Dwelling	10. Health Clinic
	11. Multi-Family Dwelling (Over 4 Units)
	12. Neighborhood Store
	13. Office
	14. Place of Worship [Section 4.17]
	15. Personal Service
In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single-family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single-family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article X.	16. Professional Service
	17. Recreation/Indoor [See (E)]
	18. Recreation/Outdoor [Public Only]

## ***Article 2: Zoning Districts and District Standards***

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### **(D) Dimensional Requirements**

#### **Lots**

Minimum Lot Size:	<u>8,700 sq ft</u>
Minimum Lot Frontage:	<u>50 feet</u>
Minimum Lot Depth:	<u>50 feet</u>

**Density Bonus:** Per 24 V.S.A. § 4412 (13), In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall permit any affordable housing development, as defined in 24 V.S.A. § 4303(2), including mixed-use development, to exceed density limitations for residential developments by an additional **40 percent** (rounded to the nearest full unit, which shall include exceeding maximum height limitations by one floor, provided that the structure complies with the Vermont Fire and Building Safety Code.

#### **Buildings and Structures**

Setback, Front	<u>25 feet maximum. The front yard setback for structures in this district shall be the average of the front yard setbacks of the principal buildings located on either side of the proposed structure, but in no event is a greater setback than 25 feet required.</u>
Setback, Side	10 feet
Setback, Rear	15 feet
Setback for Specified Accessory Structures:	Table 2.17
Maximum Lot Coverage:	<u>65%</u>
Maximum Height:	35 feet or 2 ½ stories

### **(E) District Requirements:**

1. PUDs are allowed in this zoning district subject to Article 9.
2. Recreational facilities allowed within this district are limited to publicly owned and/or operated parks, and playgrounds, athletic fields, and indoor/outdoor tennis and basketball courts, skating rinks, and similar facilities, and associated accessory structures and uses. Indoor recreational facilities allowed within this district are limited to recreation halls and similar indoor recreation facilities. Such facilities shall be located a minimum of 200 feet from all lot lines.

## **Article 2: Zoning Districts and District Standards**

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### **SECTION 2.4.5: CENTRAL BUSINESS (CB) DISTRICT**

**(A) Purpose:** The Central Business District is established to encourage a mix of commercial, cultural, civic and residential uses at high densities in Swanton’s traditional downtown, in a manner that is accessible and convenient to the general public while maintaining and enhancing the area’s historic character and economic vitality. Events and activities such as art exhibits, musical events, craft fairs and farmers markets are encouraged within this district as a further attraction to the area.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Use/Structure [to a permitted use]	1. Accessory Use/Structures [to a conditional use]
2. Auction House	2. Adaptive Reuse
3. Day Spa	3. Child Care Facility
4. Dwelling/Two-Family	4. Community Center
5. Financial Institution	5. Conference Center
6. Office	6. Cultural Facility
7. Personal Service	7. Destination Spa
8. Professional Service	8. Educational Facility
9. Public Facilities	9. Health Clinic
10. Restaurant	10. Home Occupation
11. Retail Sales and Service	11. Lodging Establishment
	12. Mixed Use
	13. Motor Vehicle Service Station
	14. Multi-Family Dwelling
	15. Night Club
	16. Outdoor Market
Non-conforming single-family homes may exist in this zoning district. In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single-family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single-family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article XI.	17. Public Parking Lot
	18. Place of Worship
	19. Private Club
	20. Recreation/Indoor
	21. Recreation/Outdoor [Public Only]
	22. Redemption Center
	23. Transit Facility

## ***Article 2: Zoning Districts and District Standards***

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### **(D) Dimensional Requirements** (unless otherwise specified for a particular use):

#### **Lots**

Minimum Lot Size:	¼ acre
Minimum Lot Frontage:	70 feet
Minimum Lot Depth:	70 feet

**Density Bonus:** Per 24 V.S.A. § 4412 (13), In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall permit any affordable housing development, as defined in 24 V.S.A. § 4303(2), including mixed-use development, to exceed density limitations for residential developments by an additional **40 percent**, (rounded to the nearest full unit), which shall include exceeding maximum height limitations by one floor, provided that the structure complies with the Vermont Fire and Building Safety Code.

#### **Buildings and Structures**

Setback, Front	0 - 10 feet maximum
Setback, Side	5 - 15 feet maximum
Setback, Rear	15 feet
Maximum <u>Lot</u> Coverage:	75%
Maximum Height:	<u>Four Stories or 60 Feet.</u>

### **(E) District Requirements:**

1. Outdoor recreational facilities allowed within this district are limited to publicly owned and operated parks and playgrounds and associated accessory structures and uses.
2. Planned unit developments are specifically excluded from this district.
3. Building design shall be sensitive to the overall character and context of the Central Business District and to adjacent buildings. As such the following design standards shall be followed:
  - a. New development and redevelopment in the Central Business District (CB) shall incorporate historic architectural elements that reinforce the established character of that district.
  - a. The size, scale and placement of the front façade design shall be kept consistent with adjacent buildings in order to tie the entire composition together.
  - b. All buildings shall have at least one principal front entry with a canopy or articulated architecture that is welcoming and easily identifiable from streets and sidewalks.
  - c. The majority of the building mass shall be located close to the road to help define

## ***Article 2: Zoning Districts and District Standards***

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the street edge and to help orient users, in accordance with existing or applicable setbacks (pattern).

- d. Separate structures (carwash, canopies over gas pumps, etc.) on a site shall have the same or compatible architectural detail, design elements and roof design as the primary structure, including a comparable pitch or parapets for roofs, same cornice treatment, same materials and colors, etc.
- e. Drive-thru windows shall be located along the sides or rear of the building. Drive-thru windows shall not be allowed between the building and the street.

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### **Section 2.4.6: Transitional Commercial (NC) District**

**(A) Purpose:** The Neighborhood Commercial District is intended to provide limited support services to the neighboring industrial park and to travelers on Route 78; to encourage a buffer between the built environment of Swanton Village to the east and the Missisquoi Wildlife Refuge to the west; and to allow for a limited mix of uses which does not duplicate services offered in Swanton Village. New development should be designed to be compatible with the scale, density and character of existing commercial and residential uses. The character of the area should be protected and enhanced through the provision of local services, adequate parking and pedestrian facilities, and suitable landscaping and screening. Commercial strip development and traffic congestion along Route 78 are to be avoided through access management and the clustering of development.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Use/Structure [to a permitted use]	1. Accessory Use/Structures [to a conditional use]
2. Accessory Dwelling Unit	2. Adaptive Reuse of an Historic Building [Sn. 4.4]
3. Child Care Home <sup>1</sup>	3. Agribusiness [including farm equipment sales]
4. Day Spa	4. Bed and Breakfast
5. Group Home <sup>1</sup>	5. Child Care Facility
6. Home Occupation	6. Community Center
7. Neighborhood Store	7. Conversion of Single-Family Dwelling to other Residential Type over Two-Family Dwelling
8. Office	8. Cottage Industry
9. Personal Service	9. Cultural Facility
10. Public Facilities	10. Destination Spa
11. Restaurant	10. Funeral Parlor
12. Single-Family Dwelling	10. Health Clinic
13. Two-Family Dwelling	11. Lodging Establishment
	12. Mixed Use
	Motor Vehicle Repair
	13. Motor Vehicle Sales
	14. Motor Vehicle Service Station
	15. Multi-Family Dwelling
	16. Outdoor Market [Section 4.16]
	17. Roadside Stand [Section 4.18]
	18. Recreation/Outdoor
	19. Recreation Vehicle Sales and Service
	20. Retail Sales and Service
	21. Storage Facility
	22. Storage Container

## ***Article 2: Zoning Districts and District Standards***

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### **(D) Dimensional Requirements** (unless otherwise specified for a particular use):

#### **Lots**

Minimum Lot Size:	¼ Acre
Acres Per Dwelling Unit	¼ Acre
Minimum Lot Frontage:	70 feet
Minimum Lot Depth:	70 feet

#### **Buildings and Structures**

Setback, Front	30 feet
Setback, Side	15 feet
Setback, Rear	15 feet
Setback for Specified Accessory Structures	Table 2.17
Maximum Lot Coverage:	<u>60%</u>
Maximum Height:	<u>40 feet or 3 stories</u>

### **(E) District Requirements:**

1. PUDs are allowed in this zoning district subject to Article 9.

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### **Section 2.4.7: Industrial (IND) District**

**(A) Purpose:** The Industrial District is established to encourage a full range of industrial, manufacturing and associated uses in locations that are well served by municipal utilities and facilities and, because of convenient access to I-89 and other state and local roads can accommodate heavy traffic volumes associated with shipping and large numbers of employees.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Use/Structure [to a permitted use]	1. Adaptive Reuse
2. Adult Continuing Educational Facility	2. Auction House
3. Contractor's Yard	3. Earth Resource Extraction
4. Industrial Retail Sales	4. Grain Elevator
5. Manufacturing	5. Lodging Establishment
4. Office	6. Motor Vehicle Sales
7. Public Facility	7. Retail Sales & Service
7. Storage Facility	8. Salvage Yard
8. Warehouse	9. Slaughterhouse
	10. Solid Waste Transfer Station
	11. Storage Container
	12. Trucking and Rail Terminal
	13. Value-Added Agriculture Enterprise

Non-conforming single-family homes may exist in this zoning district. In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single-family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single-family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article X.

### **(D) Dimensional Requirements (unless otherwise specified for a particular use):**

#### **Lots**

Minimum Lot Size:	¼ acre
Minimum Lot Frontage:	75 feet
Minimum Lot Depth:	75 feet

#### **Buildings and Structures**

Setback, Front	50 feet
Setback, Side	25 feet
Setback, Rear	25 feet
Maximum Lot Coverage:	<u>75%</u>
Maximum Height:	75 feet



**(E) District Requirements:**

1. Planned unit developments are specifically excluded from this district.

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### **Section 2.4.8: Commercial District**

**(A) Purpose:** The Commercial District is intended to serve as a transition district between the Industrial District and nearby residential areas by allowing for a range of light industrial and comparable commercial uses in a manner and scale that protects the quiet, residential character of adjacent neighborhoods.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Use/Structure	1. Adaptive Reuse
<u>2. Contractor's Yard</u>	2. Auction House
3. Educational Facility	3. Night Club
4. Financial Institution	4. Storage Container
<u>5. Lodging Establishment</u>	
6. Manufacturing	
7. Mixed Use	
8. Motor Vehicle Repair	Non-conforming single-family homes may exist in this zoning district. In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single-family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single-family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article X.
9. Motor Vehicle Sales	
10. Motor Vehicle Service Station	
11. Multi-Family Dwelling	
12. Office	
13. Public Facilities	
14. Professional Services	
15. Redemption Center	
16. Restaurant	
17. Retail Sales & Service	
18. Storage Facility	
19. Single-Family Dwelling	
20. Transit Facility	
21. Two-Family Dwelling	
22. Warehouse	

**(D) Dimensional Requirements** (unless otherwise specified for a particular use):

#### **Lots**

Minimum Lot Size:	1/2 Acre
Minimum Lot Frontage:	75 feet
Minimum Lot Depth:	75 feet

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### **Buildings and Structures**

Setback, Front	25 feet
Setback, Side	25 feet
Setback, Industrial Park	25 feet
Setback, Rear	35 feet
Maximum Lot Coverage:	60%
Maximum Height:	<u>Four Stories or 60 Feet.</u>

### **(E) District Requirements:**

1. Planned unit developments are specifically excluded from this district.

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### **Section 2.4.9: Travel Service Area (TSA) District**

**(A) Purpose:** The Travel Service Area District is intended to provide an appropriate location for commercial uses and services for the traveling public in the vicinity of the I-89 interchange and adjacent to Swanton Village.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Use/Structure	1. Adaptive Reuse
2. Financial Institution	2. Storage Container
3. Lodging Establishment	
4. Mixed Use	
5. Motor Vehicle Repair	
6. Motor Vehicle Sales	
7. Motor Vehicle Service Station	
8. Night Club	
9. Personal Service	Non-conforming single-family homes may exist in this zoning district. In accordance with the State statute [§4412(5)], a Child Care Home shall be considered by right to constitute a permitted single-family residential use of the property. In accordance with the State statute [§4412(G)], a Group Home shall be considered by right to constitute a permitted single-family residential use of property. Please refer to the definitions of Child Care Home and Group Home in Article X.
10. Public Facilities	
11. Professional Service	
12. Restaurant	
13. Retail Sales & Service	
14. Storage Facility	
15. Transit Facility	

**(D) Dimensional Requirements** (unless otherwise specified for a particular use):

#### **Lots**

Minimum Lot Size:	¼ Acre
Minimum Lot Frontage:	70 feet
Minimum Lot Depth:	70 feet

#### **Buildings and Structures**

Setback, Front	25 feet
Setback, Side	15 feet
Setback, Rear	15 feet
Maximum Lot Coverage:	60%
Maximum Height:	45 feet

**(E) District Requirements:**

1. For development within this district, the entire lot shall be suitably landscaped, except for those areas which are covered by buildings or surfaced as parking or service areas. All landscaping shall be properly maintained throughout the life of any use on the lot.
2. Where lot lines coincide with residential district boundaries or existing residential properties, there shall be planted along such lot lines trees and shrubs, of a type and spacing as required by the Development Review Board subject to site plan review under Section 5.3, to adequately screen all operations on the lot from the view of adjoining residential districts and/or properties. Such screening generally shall be greater than 3 feet but less than 8 feet in height.
3. Existing retaining walls, trees, or landscaping within 20 feet of any street right-of-way, lot in residential use, or residential district boundary shall not be removed except with the approval of the Development Review Board subject to site plan approval under Section 5.3.
4. Customary accessory uses and structures to a residential use, including but not limited to child care homes, home occupations, and group homes, and on a conditional basis, accessory apartments, may be allowed within single-family dwelling units in this district which were in existence as of the effective date of these regulations.
5. Planned unit developments are specifically excluded from this district.

**Section 2.4.10 Southern Growth District (SG)**

**(A) Purpose:** The purpose of the Southern Growth District is to provide an area for future high density residential and commercial growth in a compact and well-designed pattern of development that is complementary, rather than competitive, to Swanton Village and other growth centers in adjacent towns, to provide for growth of an efficient system of roads and other infrastructure and to create connections between transportation modes. The design and development of this district should be accomplished in such a manner that historic, aesthetically pleasing, and environmentally appropriate patterns of development are created and visual impacts to surrounding roads and highways are avoided. Vehicle and pedestrian access connections between abutting developed lots is encouraged. Each development should be nicely landscaped with trees, shrubs, and flowers that suit the particular site and grow well in the northwestern Vermont environment.

<b>(B) Permitted Uses:</b>	<b>(C) Conditional Uses:</b>
1. Accessory Uses/Structure to Permitted Use	1. Accessory Use/Structure to a conditional use
2. Agriculture	2. Adaptive Reuse
3. Child Care Home	3. Assisted Living Center
4. Group Home	4. Bed and Breakfast Inn
5. Home Occupation	5. Child Care Facility
6. Recreation, Outdoor	6. Conference Center
7. Single-Family Dwelling	7. Contractor's Yard
8. <u>Two-Family Dwelling</u>	8. Convenience Store/Fueling Station
9. PUD: Allowed Uses	9. Conversion of a Single-Family Dwelling
Conditional Uses in PUD'S require	10. Cottage Industry
Conditional Use approval.	11. Financial Institution
	12. Garden Center
	13. Laundromat
Financial Institution	14. Light Industry/Manufacturing
	15. Lodging Establishment
	16. Mixed Use
	17. Motor Vehicle Sales
	18. Motor Vehicle Service
	19. Movie Theatre
	20. Multi-Family Dwelling
	21. Nightclub/Pub
	23. Office and Personal/Professional Services: No Limit on floor area size
	24. Private Club
	25. Privately Owned Water & Wastewater System

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	26. PUD: Conditional Uses
	27. Public Facilities
	28. Public Parking Lot
	29. Restaurant
	30. Recreation, Indoor
	31. Retail Sales and Service: No Limit on Floor Area Size
	32. Roadside Stand
	33. Service Organization

### (D) Dimensional Requirements (unless otherwise specified for a particular use):

Minimum Lot Size:	¼ acre
Acres Per Dwelling Unit	¼ acre
Minimum Lot Frontage:	70 feet
Minimum Lot Depth:	70 feet
Minimum Setbacks:	

Front	30 feet
Side	15 feet
Rear	15 feet

Maximum Height:	<u>Four Stories or 60 Feet.</u>
For Specified Accessory Structures:	See Table 2.17

Maximum Lot Coverage:	65%
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### (E) District Requirement:

1. Public Facilities in this District are restricted to indoor & outdoor recreation and associated structures, educational facilities, public safety, and municipal water & wastewater facilities.

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### SECTION 2.4.11 FLOOD HAZARD OVERLAY DISTRICT (FHO)

**(A) Purpose:** The purpose of the Flood Hazard Area Overlay District is to protect health, safety and welfare of the public, minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding-related inundation and erosion hazards; It is also the intent of the Town and Village of Swanton to regulate development within identified flood hazard areas in accordance with state and federal law in order to ensure that private property owners are eligible for flood insurance through the National Flood Insurance Program (NFIP).

#### **(B) Flood Hazard Review and Permitted Land Development:**

P – Permitted (Administrative Permit)  
C – Conditional Use Review and Permit  
X – Prohibited  
A – Exempted  
S – State Permit Required

#	Activity	River Corridor	Flood Hazard Areas	Floodway
1	New Structures	C	C	X
2	Storage	C	C	X
3	Improvements to Existing Structures	P, C	P, C	C
		River Corridor	Flood Hazard Areas	Floodway
4	Small Accessory Structures	P, C	P	X
5	At Grade Parking	P	P	C
6	Replacement water supply or septic systems	P, C	P	P, C
7	Fill or grading resulting in no net loss of flood storage	P, C	C	C
8	Fill or grading resulting in a loss of flood storage	P, C	X	X
9	Road maintenance	A	A	A
10	Road improvements	C	C	C
11	Bridges and culverts	S, A	S, A	S, C
12	Channel management	S, A	S, A	S, C
13	Recreational vehicles	P	P	P



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1 4	Open space, recreation	A	A	A
1 5	Forestry and Agriculture	S, A	S, A	S, A

### **(C) Dimensional Standards**

As set forth for the underlying district, unless otherwise specified for a particular use.

### **(D) District Requirements:** See Section 5

**Warning of Disclaimer of Liability:** This Section does not imply that land outside of the Special Flood Hazard Overlay District will be free from flood damages. This regulation shall not create liability on the part of the Town of Swanton or any municipal official or employee thereof, for any flood damage that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

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### **SECTION 2.4.12 : NATIVE AMERICAN SITES OVERLAY DISTRICT (NASO)**

**(A) Purpose:** The purpose of the Native American Sites Overlay District is to create trust, confidence and harmony between private property owners and Native Americans; to insure property owners' rights, privacy and property values; to preserve and protect Native American ancestral burial grounds.

**(B) Permitted Uses:**

1. Outdoor recreation (no structures)

**(C) Conditional Uses:**

All other permitted or conditional uses listed for the underlying district, unless otherwise specifically exempted under Section 6.5.

**(D) Dimensional Standards**

As set forth for the underlying district, unless otherwise specified for a particular use.

**(E) District Requirements**

1. Uses permitted within the Native American Sites Overlay Specifically include agriculture and forestry; unimproved open space, recreational and educational uses; and those uses generally permitted within single-family dwellings which do not require structural alterations (i.e., child care homes, group homes, and home occupations as defined herein). All other uses and structures, including but not limited to new or expanded single-family dwellings, additions and accessory structures, shall be subject to review under Section 3.17, as well as all other applicable municipal and state regulations. All properties on Monument Road and Fournier Lane with either a MOXXX or FLXXX parcel id prefix shall be subject to review under Section 3.17.

2. Applications for development within the Native American Site Overlay District shall be submitted in accordance with the provisions of Section 3.17.

3. Development in the Native American Sites Overlay District shall be subject to conditional use review under Section 6.4 as well as applicable requirements of the underlying zoning district. Where this overlay imposes more restrictive standards on the construction and use of structures or land, the most restrictive standards shall apply.

## Article 2: Zoning Districts and District Standards

### SECTION 2.4.13: DIMENSIONAL STANDARDS AND USES BY ZONING DISTRICT

	SL	R1	R5	CB	TCD	IND	CD	TSA	SG
Minimum Lot Size (acres)	1	1	0.20	0.25	0.25	0.25	0.5	0.25	0.25
Min. Lot Size (mun. water & sewer)	--	0.20	0.20	--	--	--	--	--	--
Minimum Frontage	150'	150'	50'	70'	70'	75'	75'	70'	70'
Lot Depth	150'	150'	50'	70'	70'	75'	75'	70'	70'
Maximum Height	35'	35'	35'	60'	40'	75'	60'	45'	60'
Maximum Lot Coverage	20%	20%	65%	75%	60%	75%	60%	60%	65%
Minimum Setback/Front	50'	50'	25'*	0-10'	30'	50'	50'	25'	30'
Minimum Setback/Side	15'	25'	10'	5-15'	15'	25'	25'	15'	15'
Minimum Setback/Rear	15'	25'	15'	15'	15'	25'	35'	15'	15'
Planned Unit Development (PUD)	Yes	Yes	Yes	No	Yes	No	No	No	Yes
Accessory Structure or Use	P/C	P/C	P/C	P/C	P/C	P	P	P	P/C
Adaptive Reuse	C	C	C	C	C	C	C	C	C
Agribusiness		C			C				
Auction House		C		P		C	C		
Motor Vehicle (Motor Vehicle) Repair		C			C		P	P	
Motor Vehicle (Motor Vehicle) Sales					C	C	P	P	C
Motor Vehicle Service Station				C	C		P	P	C
Bed & Breakfast	C	C	C		C				C
Boat Sales, Storage & Repair	C								
Campground	C	C							
Cemetery		C							
Child Care Facility	C	C	C	C	C				C
Child Care Home	P	P	P		P		P	P	P
Community Care Facility			C						

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	SL	R1	R5	CB	TCD	IND	CD	TSA	SG
Community Center		C	C	C	C				
Conference Center				C					C
Contractor's Yard	C	C				P	P		
Convenience Store									C
Conversion/Seasonal to other Residential Use	C								
Conversion/Single to other Residential Use	C	C	C		C				C
Cottage Industry	C	C			C				C
Cultural Facility				C	C				
Day Spa				P	P				
Destination Spa				C	C				C
Dwelling/Accessory	C	P	P		P		P		P/C
Dwelling/Multi-Family			C/P	C	C		P		C
Dwelling/Seasonal	P								
Dwelling/Single-Family	P	P	P		P		P		P
Dwelling/Two Family	C	P	P	P	P		P		P
Educational Facility			C	C			P		
Earth Resource Extraction		C				C			
Financial Institution				P	C		P	P	C
Funeral Parlor			C		C				
Garden Center		C							C
Grain Elevator						C			
Health Clinic			C	C	C				
Home Occupation	P	P	P	C	P				P
Industrial Retail Sales						P			
Kennel	C	C							
Laundromat									C

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	SL	R1	R5	CB	TCD	IND	CD	TSA	SG
Light Industry/Manufacturing									C
Lodging Establishment				C	C	C		P	P/C
Manufacturing						P	P		
Marina	C								
Mixed Use	C			C	C		P	P	C
Mobile Home Park									
Movie Theater									C
Neighborhood Store	C		C		P				
Night Club				C				P	C
Office		C	C	P	C	P	P		C
Outdoor Market		C		C	C				
Public Parking Lot				C					C
Personal/Professional Service/Business			C	P	C			P	C
Pier, Dock, Boat Ramp (Permanent)									
Place of Worship	C	C	C	C	C				C
Private Club	C			C	C				C
Public Facility	P	P	P	P	P	P	P	P	C
Recreation/ Indoor	C	C	C	C	C				C
Recreation/ Outdoor	C	C	C	C	C				P
Recreation Vehicle Sales & Service					C				
Redemption Center				C	C		P		
Restaurant				P	P		P	P	C
Retail Sales & Service				P	C		P	P	C
Roadside Stand	C	C			C				C
Salvage Yard						C			
Service Organization									C

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	SL	R1	R5	CB	TCD	IND	CD	TSA	SG
Slaughterhouse						C			
Solid Waste Transfer Station						C			
Storage Container	C	C			C	C	C	C	C
Storage Facility		C			C	P	P	P	
Wireless Telecommunications Facility		C							
Transit Facility				C			P	P	
Trucking Terminal						C			
Value-Added Agricultural Enterprise	C	C			C				C
Veterinary Clinic		C							
Warehouse						P	P		
Wildlife Preserve	P								

<b>TABLE 2.17 RESIDENTIAL ACCESSORY STRUCTURES</b>					
	<b>Front Setback</b>	<b>Side Setback</b>	<b>Rear Setback</b>	<b>Maximum Floor Area (Ground Floor)</b>	<b>Maximum Height</b>
Garage	District	15 feet	15 feet	<u>800</u> sq.ft.	District
Garden/Tool Shed	District	15 feet	15 feet	180 sq.ft.	16 feet/ 1½ stories
Satellite Dish and/or (Energy Generation)	District	15 feet	15 feet	3 feet (diameter)	<u>12 Feet</u>
Addition	District	District	District	District	District
Deck, Porch, Breezeway	District	15 feet	15 feet	District	35 feet
Swimming Pool	60 feet	20 feet	20 feet	Section 4.17	Section 4.17

Note: The following accessory structures are exempt from these regulations [see Section 10.1(A)].

- (1) Residential entry stairs, handicap ramps, walkways, and fence panels or walls which do not exceed 6 feet in height, which do not extend into or obstruct public rights-of-way.
- (2) One detached accessory structure which does not exceed 100 square feet in floor area or 10 feet in height, providing such structure meets front setback requirements, is set back a minimum of 5 feet from all lot lines, and is not used as living space. A letter of intent to build, with a plat indicating dimensions and setbacks, must be submitted to the Zoning Administrative Officer.

## **ARTICLE 3: GENERAL REGULATIONS**

### **SECTION 3.1: DEMOLITION, DESTRUCTION AND/OR ABANDONMENT OF STRUCTURES**

Allowing the ruins of any structure demolished or damaged by any cause, including deterioration, to remain for more than eighteen (18) months from the date of damage is prohibited. Within eighteen (18) months, the owner shall request a building permit to remove and replace the structure, repair the damaged structure, or demolish and remove all debris from the site. Any excavation remaining will be covered over with earth to the normal grade levels.

**(A)** In the event of a damaged structure, no zoning permit shall be required for:

- (1) the stabilization of damaged structures to prevent hazards to public health and safety or to adjoining properties;
- (2) nor for the repair, restoration or reconstruction of damaged structures to the extent of their prior condition and use, unless located within the Flood Hazard Area Overlay District.
- (3) However, reconstruction or rebuilding that results in density, dimensional or use changes under the provisions of these regulations shall require a zoning permit.

**(B)** Within eighteen (18) months after a permanent or temporary structure or building has been destroyed, demolished or abandoned; or for an unfinished structure or building, within one year of the date that excavation work has begun, the owner shall either:

- (1) restore or repair the structure in accordance with subsection (A) above; or
- (2) request an eighteen (18) month extension for a maximum of thirty-six (36) months.
- (2) apply for a zoning permit to resume construction or reconstruction in accordance with Section 10.1 of these regulations; or

### **SECTION 3.2: ACCESS REQUIREMENTS**

**(A) Required frontage on, or access to, public roads, class IV Town Highways or public waters.**

In accordance with and in addition to 24 V.S.A. § 4412, land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved under Site Plan Review or Subdivision Approval, as applicable, and the following standards are met:

- (1) Access by right-of-way to lots without frontage shall be at least twenty (20) feet in width to serve up to two (2) lots and at least fifty (50) feet in width to serve more.
- (2) Access by right-of-way shall comply with the highway access, class IV road, private road and driveway standards in Section 3.2 and Section 8.8 Roads and Pedestrian Access, as applicable.



(3) The DRB shall consider the intended use of the property, safety, traffic, and road and site conditions in granting, conditioning, or denying approval.

**(B) Highway Access - Municipal Right of Way:**

- (1) Access onto Town public highways is subject to the approval of the Swanton Selectboard Chair, Road Commissioner and Road Foreman. Access onto Village highways is subject to the approval of the Village Manager and Public Works Director. For state highways, the Vermont Agency of Transportation. As a condition of access approval, compliance with all local regulations and ordinances pertaining to roads and land use is required. Access permits must be issued prior to the issuance of a zoning permit. In the event that subdivision, site plan and/or conditional use approval is required, access approval shall be obtained following the issuance of such approvals.
- (2) All private roads and driveways entering onto public roads must meet Town or Village specifications for culverts, grading, and ditching.
- (3) Access (curb cut) widths shall be limited to the width as approved and shall not extend along the length of road frontage. The installation of curbing or other defining infrastructure may be required for development subject to subdivision, site plan, and/or conditional use review.
- (4) All commercial and industrial uses shall have direct access (via a curb cut, driveway, or access road) onto a maintained public road, and shall meet Vermont Agency of Transportation B-71B Commercial Standards including visibility standards.
- (5) The number of curb cuts and their widths may be minimized and may integrate entries with other access points and streets wherever possible. When possible, the DRB may require shared access to adjoining properties and may limit access to the property to the lesser traveled street. Shared access shall be possible when it can be implemented without removal of any existing buildings; shared access is feasible based on subsurface conditions; and shared access will not have an adverse effect on one of the uses of the property in question.

**(C) Class IV Roads.** If a Class IV road is to be used as an access right-of-way, the Town is under no obligation to upgrade the road to a Class I, II, or III road, or to maintain it for year-round use. Maintenance shall be the responsibility of the applicant and subsequent landowners. The reclassification of a Class IV road may be considered by the town only in accordance with state statute and applicable town road policies currently in effect.

**(D) Private Roads:**

- (1) For the purposes of these regulations, a private right-of-way serving three or more lots shall be considered a private road and shall be built according to Section 8.8 Road and Pedestrian Access.
- (2) Proposed roads within the Southern Growth District shall be constructed to adequately handle the projected level of use in accordance with Section 8.8 Road and Pedestrian Access and all Town and Village of Swanton Road ordinances currently in effect. Upon review and certification by the Town or Village of Swanton to ensure conformance with Section 8.8 Road and Pedestrian Access, the Town or Village of Swanton to initiate the process to accept such roads as public roads.
- (3) To ensure public safety and welfare, the Development Review Board may impose additional restrictions on proposed private roads based on site, road and traffic conditions, proposed uses accessed by the road, and emergency vehicle access.

**(E) Driveways:**

- (1) A driveway may serve as an access to property for the purposes of development of not more than two (2) lots.
- (2) When a driveway serves more than one lot, it shall be built to B-71A standards and be certified by a licensed draftsman, surveyor or engineer.
- (3) Driveways, to the extent feasible, shall be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines; to avoid the fragmentation of agricultural land and open space; and to avoid adverse impacts to natural, cultural and scenic features.
- (4) A new or relocated driveway shall be located so that:
  - a. A safe sight stopping distance is provided, as determined by probable traffic speed, terrain, alignments and climatic extremes.
  - b. It is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. Intersections creating centerline offsets of less than 125 feet shall not be permitted;
  - c. It intersects the existing road at an angle between 70 and 90 degrees;
  - d. No structure or planting is situated to impair corner visibility.
- (5) Driveways shall be accessible by emergency service vehicles and shall logically relate to topography so as to ensure reasonable grades and safe intersections with public or private roads.

Driveways shall not, in the first fifty (50) foot section, exceed an average grade of 10% from the public right of way (i.e., maximum of 5' rise in any 50' stretch) unless approved by the selectboard.

Any driveway longer than 500 feet and with a paved width of less than 20 feet must be constructed with pull-off areas not more than 500 feet apart. A driveway longer than 200 feet must terminate with a parking and turnaround area not more than 50 feet from the principal building that is adequately sized and surfaced to accommodate emergency vehicles and to allow fire equipment and personnel to be positioned to effectively lay out equipment, approach the building, and fight a fire.

- (6) Shared driveway accesses are strongly encouraged and may be required for development subject to subdivision, site plan and/or conditional use review.
- (7) In the case of unusual topographic conditions or other circumstances which would make the strict adherence to the above standards a substantial hardship, the Development Review Board may, in consultation with the appropriate legislative body, modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed driveway is accessible by emergency response vehicles, does not pose any threat to the safety of motorists or pedestrians, will not result in unreasonable maintenance requirements for landowners, and is designed in a manner that is consistent with other applicable standards of these regulations. No modification shall be approved without the receipt of a letter of approval from the Town's Fire Chief, Police Chief or Rescue Squad stating that the driveway will provide safe access to each dwelling unit that it serves.

### **SECTION 3.3: CONVERSION OR CHANGE OF USE**

**(A)** A conversion or change in the use of land, existing buildings or structures is subject to the following provisions of these regulations:

- (1) The proposed use shall be subject to all requirements of these regulations pertaining to such use, including but not limited to any district, access, parking, and/or sewage disposal requirements, as well as any other applicable municipal regulations currently in effect.
- (2) A conversion or change of use from one permitted use to another permitted use requires a zoning permit issued by the Administrative Officer in accordance with Section 10.1. Site plan approval also may be required under Section 6.3 depending on the type of proposed use.
- (3) A conversion or change of use from a permitted to a conditional use, or from one conditional use to another conditional use shall require conditional use approval under Section 6.4 in addition to a zoning permit. Site plan approval also may be required under Section 6.3, depending on the type of proposed use.

**(B)** Where a conversion or change of use would result in increased sewage generation, including but not limited to: (1) the conversion of a seasonal or accessory dwelling to a single-family dwelling, (2) the construction of a single-family dwelling to a two-family or multi-family dwelling, (3) the addition of an accessory dwelling unit, or (4) a mixed use, a zoning permit shall not be issued by the Administrative Officer until a wastewater system design or upgrade has been approved in accordance with Section 3.15.

**(D)** The conversion of a seasonal to a year-round single-family dwelling shall be subject to conditional use review under Section 6.4, and the following additional requirements:

(1) There shall be proof from the State of Vermont Department of Environmental Conservation that the wastewater system is: a. already considered by the State to be for year-round use, or b. that the existing system is adequate for year-round use, or c. that a new Wastewater/Potable Water Supply Permit is issued by the State of Vermont Department of Environmental Conservation for a new system capable of year-round use, and

(2) All Applicable local permits are obtained by the applicant, and

(3) All applicable fees are paid.

#### **SECTION 3.4: EXISTING SMALL LOTS**

**(A)** In accordance with 24 V.S.A. § 4412 any lot in individual, separate, and nonaffiliated ownership from surrounding properties in existence as of the effective date of these regulations, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot dimensional requirements, if such lot is not less than 1/8 of an acre in area within a minimum depth dimension of 40 feet. Development of a pre-existing small lot shall be subject to all other applicable requirements of these regulations, including but not limited to access, parking and wastewater requirements.

**(B)** An existing small lot which is in affiliated or common ownership with one or more contiguous lots as of the effective date of these regulations, or which subsequently comes under affiliated or common ownership with one or more such contiguous lots, shall be deemed merged and may be separately conveyed only if, in accordance with 24 V.S.A., all of the following requirements are met:

- (1) the lots are conveyed in their pre-existing, non-conforming configuration; and
- (2) On the effective date of these regulations, each lot had been developed with a water supply and wastewater disposal system; and

- (3) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
- (4) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply, pursuant to 24 V.S.A. §4412(1)(B)(iv).

### **SECTION 3.5: HEIGHT REQUIREMENTS**

No Structure subject to these regulations may exceed district height limits as specified in Article 2 unless otherwise specified in these regulations:

- (1) farm structures, including barns and silos, in accordance with the 24 V.S.A. § 4413 (d);
- (2) steeples, spires, cupolas and belfries on churches and public buildings;
- (3) telecommunications facilities (see Section 4.20);
- (4) transmission towers;
- (5) the following structures associated with a public or residential use, which do not exceed 40 feet in height from the finished grade at ground level to the top of the structure:
  - a. wind generators with blades less than 20 feet in diameter,
  - b. rooftop solar collectors,
  - c. satellite dishes less than 3 feet in diameter (also see Section 4.20),
  - d. chimneys, ornamental cupolas, weathervanes and flag poles.
  - e. Infrastructure to meet American Disability Act and/or Vermont Fire Safety Code Requirements.

**(A)** Notwithstanding maximum district height requirements under Article 2, the Development Review Board may permit structures in excess of district height requirements as conditional uses subject to review under Section 6.4, and upon finding that:

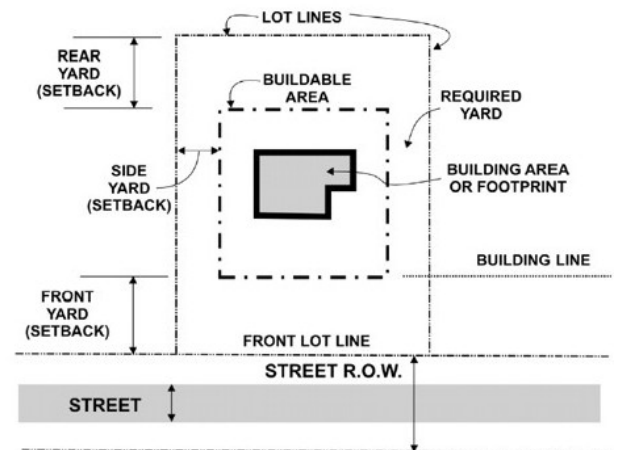
- (1) the structure does not constitute a hazard to public safety or adjoining properties;
- (2) fire protection is adequately provided for;
- (3) the portion of the structure that exceeds the district height requirement shall remain unoccupied except for normal maintenance;
- (4) structural design and/or front, side and rear yard setbacks are sufficient to protect adjoining properties and rights-of-way in the event of structural collapse;
- (5) the structure shall not be used for advertising purposes;

- (6) access to the structure, particularly for climbing, is restricted;
- (7) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation; and
- (8) all other applicable conditional use and performance standards (Section 3.11) are met.

### **SECTION 3.6: LOT, SETBACK & YARD REQUIREMENTS**

**(A)** Only one principal use or structure shall be located on a single lot or parcel, unless specifically allowed within a district as a mixed use, as otherwise approved by the Development Review Board as part of a Planned Unit Development (see Article 9), or as allowed under adaptive reuse provisions of these regulations (see Section 5.4).

**(B)** An accessory use or structure must conform to all lot, setback and other applicable requirements for the district in which it is located, unless otherwise specified [see Section 2.4.13, Table 2.17, and Section 10.1(A)].



**(C)** No lot shall be so reduced in area that it cannot conform to area, setback, yard, frontage and other dimensional requirements as prescribed in these regulations, except as approved by the Development Review Board as part of a Planned Unit Development under Article 9.

**(D)** In calculating required lot area, lot width, lot depth, and yards, the area of existing or proposed road rights-of-way shall not be included.

**(E)** Space required under these regulations to satisfy area, yard or other open space requirements in relation to one principal structure or building shall not be counted as part of the required open space for any other principal structure or building.

**(F)** Setback distances defining front yard areas shall be measured from the edge of the road right-of-way (street line), or from a distance of 25 feet from the road centerline, whichever is greater.

**(G)** Corner lots with frontage on two roads shall meet minimum district frontage and front yard setback requirements on both roads.

**(H)** For lots having both road and lakeshore or river frontage, the front yard shall be the yard defined by the front yard setback distance as measured from the road.

(I) For an interior lot which does not have frontage on a public or private road or public waters, the minimum lot width shall be the frontage distance, and the minimum setback distance defining all yards (front, side, rear) shall be the minimum side yard setback distance for the district in which the lot is located; an interior lot shall meet all other applicable requirements for the district in which it is located.

- (1) The DRB shall consider and may require design features, screening, or some other remedy in order to mitigate anticipated impacts of any such waiver. The design feature should have a minimum height of five (5) feet above grade level and shall provide adequate privacy to the surrounding use(s). Options include a wall, a solid fence, a densely planted hedge or natural and/or man-made landforms.
- (2) The DRB may require that all outdoor storage of materials and equipment, including waste storage facilities, shall not be stored or located within the reduced setback area.
- (3) Shall provide only the minimum waiver that will represent the least deviation possible from the bylaw.
- (4) Waivers requests for nonconforming structures shall be approved in conformance with Section 3.8(C)(3)

### **SECTION 3.7: NONCONFORMING USES & NONCONFORMING STRUCTURES**

**(A) Applicability.** In accordance with 24 V.S.A. § 4412(7) the following provisions shall apply to all structures and uses in lawful existence as of the effective date of these regulations, or subsequent amendments thereof, which do not conform to the requirements of these regulations.

**(B) Nonconforming Uses.** A pre-existing use which does not conform with uses allowed in the district in which it is located shall be deemed a nonconforming use. The nonconforming use of a structure(s) or land may be continued indefinitely, however, such a use:

- (1) shall not be moved, enlarged, altered, re-established or restored, except as specifically provided below, nor shall any external evidence of such use be increased by any means whatsoever;
- (2) may be changed to another nonconforming use with conditional use approval of the Development Review Board under Section 6.4, but only to a use which, in the opinion of the Development Review Board, is more in conformance with district purposes and allowable uses than the previous use;
- (3) shall not be re-established if such use has been discontinued for any reason besides damage for a period of one year, regardless of any intent to resume such use, or has been changed to or replaced by a conforming use; and

- (4) shall not be restored to other than a conforming use after damage from any cause, unless the nonconforming use is reinstated within the timeline outlined in Section 3.1 of such damage (e.g., within a restored structure), or the nonconforming use is carried on without interruption on the lot and/or within the undamaged portion of such structure.

**(C) Nonconforming Structures.** A pre-existing structure, or part thereof, which is not in compliance with the provisions of these regulations concerning setbacks, height, lot size or other dimensional requirements, or which does not meet parking area or other applicable requirements of these regulations, shall be deemed a nonconforming structure. A nonconforming structure may be continued indefinitely. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure, however, such a structure:

- (1) shall not be reconstructed after damage from any cause unless a permit for reconstruction is received within eighteen months (18) of such damage, and does not increase the degree of nonconformance which existed prior to the damage **(see Section 3.1)**;
- (2) may be moved, altered, extended, or enlarged in a manner which does not increase the degree of nonconformance (e.g., the footprint or height of the structure located within setback or yard areas; See Figure 3.1); or
- (3) may be increased in height only in accordance with Section 3.6 of these regulations.

### **SECTION 3.8: OPEN STORAGE LIMITATIONS**

**(A) Applicability.** There shall be no open storage of any materials or items as listed below on property unless properly covered and screened from view from public roads in compliance with this section.

- (1) Concrete, asphalt, construction debris, brick foundations and flat work, lumber and other construction material unless being used for a building project in conformance with these Regulations;
- (2) Appliances such as refrigerators, stoves and microwave ovens;
- (3) Sinks, toilets, cabinets, or other fixtures or equipment;
- (4) Abandoned, discarded, or broken furniture;
- (5) Furniture not constructed for outdoor use; and
- (6) Rubbish, junk, refuse, garbage, scrap metal, tin cans, and recyclables, unless for the purpose of recycling and solid waste pickup for disposal.



(7) Up to two (2) unregistered motor vehicles.

**(B) Storage Requirements.** The materials listed in sub-section (A) above shall comply with the following standards:

- (1) There shall be no more than two (2) storage areas.
- (2) Storage areas shall not cover a footprint in excess of fifty (50) square feet and shall not be more than six (6) in height,
- (3) Storage areas shall not be located in any setback areas,
- (4) Storage areas shall be enclosed in a structure or covered year-round.
- (5) Storage areas shall be screened from view of any public right-of-way through the use of fencing, landscaping, a structure or other screening.
- (6) Storage areas shall not be located in the front of any structure.

**(C) Salvage Yards and Solid Waste Transfer Stations.** New salvage yards and solid waste transfer stations shall be located only within designated zoning districts, and shall comply with all applicable municipal and state regulations.

### **SECTION 3.9: PARKING, LOADING & SERVICE AREA REQUIREMENTS**

**(A) Purpose.** To ensure that all new or expanded uses will provide adequate parking, loading and service areas so that normal traffic to and from the premises will not interfere with public rights-of-way or adversely affect traffic circulation, public safety, or neighboring properties.

**(B) Parking Requirements.** Whenever any new use is established, or when an existing use is expanded or changed, off-street parking areas shall be provided as set forth below:

- (2) The number of spaces existing and to be provided shall meet at minimum the standards set forth in Table 3.

<b>Table 3.1 Off-Street Parking Requirements</b>	
<b>Use Type</b>	<b>Minimum Spaces Required</b>
Bed & Breakfast	<u>1.5</u> per dwelling unit, 1 per lodging room and 1 per non-resident employee
Bowling Alley	3 per alley or lane

<b>Table 3.1 Off-Street Parking Requirements</b>	
<b>Use Type</b>	<b>Minimum Spaces Required</b>
Community Care Facility (nursing home, group home)	1 per 3 beds
Dwelling Unit	<u>1.5 per unit; or 1 per unit if within ¼ mile of public parking.</u>
Educational Facility	1 per 5 auditorium seats and 2 per elementary classroom or 4 per secondary classroom
Funeral Home	1 per 2 employees and 5 per chapel or visiting room
Golf Course/Country Club	1 per 2 members or 1 per every 2 accommodations (e.g., lockers), whichever is greater
Health Clinic	3 per physician, dentist or other primary care giver or 4 per 1,000 SF of GFA, whichever is greater
Home Business (Home Occupation, Cottage Industry)	2 per dwelling and 1 per nonresident employee
Lodging Facility (hotel, motel, inn)	1 per room or rental unit and one per employee for largest shift
Manufacturing	1 per 2 employees for the largest shift, or 1.5 per 1,000 SF of GFA, whichever is greater
Neighborhood Store	5 per store
Office	2 per 1,000 SF of GFA
Personal Service	2 per 1,000 SF of GFA
Private Club	3 per 1,000 SF of GFA
Public Assembly (place of worship, auditorium, meeting hall, theater, etc.)	1 per 200 SF of GFA, or 1 per 5 seats in assembly room(s), whichever is greater
Public Facility with no or limited public access (stations, garages, etc., not open to the general public)	1 per 1000 sq. ft. of GFA and 1 per on-site employee at largest shift
Restaurant	1 per 5 seats or 6 per 1,000 SF of GFA, whichever is greater
Retail Sales & Service	3 per 1,000 SF of GFA

**Table 3.1 Off-Street Parking Requirements**

Use Type	Minimum Spaces Required
Roadside Stand	3 per stand
Service Establishment	5 per establishment
Warehouse	1 per 1,000SF of GFA, and 1 per employee at largest shift
Unspecified	As determined by the Development Review Board under site plan review

*Abbreviated GFA refers to the gross floor area of a building, without storage and utility spaces.*

- (2) Parking facilities or areas considered in the calculation for open or enclosed off-street parking may include private parking lots or garages, carports, or any other area available for parking other than a street or driveway; however, a driveway within a required front yard setback for a single or two-family dwelling may count as one parking space, except on a corner lot.
- (3) Off-street parking areas, except for single and two-family dwellings and accessory apartments, shall be designed to allow space for parking, access and maneuvering onsite in compliance with the standards in Table 3.2 to ensure safe, adequate, and convenient access and circulation for vehicles and pedestrians.

**Table 3.2 Parking Area Design Standards**

Parking Angle (degrees)	Space Width	Space Length	Aisle Width (1 way)	Aisle Width (2 way)
30	9 feet	18 feet	12 feet	20 feet
45	9 feet	18 feet	13 feet	20 feet
60	9 feet	18 feet	18 feet	20 feet
90	9 feet	18 feet	20 feet	20 feet
Parallel	9 feet	20 feet	12 feet	20 feet
Up to 15% of provided parking spaces may be compact spaces measuring 8 feet x 16 feet. Aisle width standards shall remain the same.				

- (4) All parking accesses must meet Vermont Agency of Transportation (B-71) standards (also see Section 3.2).
- (5) Parking of more than one commercial vehicle over 16,000 G.V.W.R. on a residential lot shall be a conditional use subject to conditional use review under Section 6.4. However, no vehicle over 16,000 G.V.W.R. shall be allowed on any lot less than 1 acre in size. In addition to conditional use requirements, the Development Review Board shall also consider the following:

- a. cargo hazards, and
  - b. vehicle ownership.
- (6) The location of all entrances and exits from any off-street parking area shall comply with Section 3.2.
- (7) In addition to Table 3.1 requirements, parking areas subject to site plan review under Section 6.3 shall meet the following requirements:
  - a. In addition to the requirements listed in Table 3.1, all multi-family, public, commercial and industrial developments must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal (e.g., ADA) requirements, and at least one bicycle rack for use by residents, employees and/or the general public.
  - b. All open parking areas shall be properly drained in accordance with accepted best management practices for stormwater drainage, and all such areas shall be provided with a dustless surface. The use of pervious materials to reduce stormwater runoff is encouraged and may be required.
  - c. Open or enclosed parking areas for 9 or more vehicles shall include parking spaces that are individually identified (e.g., by means of pavement markings). **Such parking areas shall not be located in any front yard, within 10 feet of any property line, or within 15 feet of any wall of a dwelling that contains windows (other than bathroom or kitchen windows) with a sill height of less than 8 feet above the level of the parking space. Such parking areas shall not be used for automobile service, repair or fueling, or for the storage of gasoline, oil, grease or other materials.**
  - d. Parking areas with 10 or more parking spots shall be landscaped and screened with vegetation such as a hedge and only by a wall or fence subject to approval by the Development Review Board. Such screening shall not be less than 3 feet nor more than 8 feet in height.
- (8) **Shared Parking.** Parking areas subject to site plan review under Section 6.3 shall also meet the following requirements:
  - a. Shared parking is encouraged and may be required. Shared parking allows a reduction in the total number of parking spaces required for certain properties in cases where a mix of adjacent land uses have varying peak periods of parking demand. Required parking spaces, open or enclosed, may be provided in parking areas designed to jointly serve two or more establishments, whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.

- b. When a lot contains two or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more uses will be generating a demand for parking spaces primarily during periods when other uses are not in operation, the Development Review Board may reduce the total number of parking spaces required for that use to the lesser required.
  - c. Required parking spaces, open or enclosed, shall be located either on the same lot as the use for which they are accessory, or off-site, provided that all required spaces are located within 400 feet of the property boundary on a safe, walkable route See Figure 3.2. Such spaces shall be in the same ownership or under long-term lease agreement as the use to which they are accessory, and shall be subject to deed restriction, approved by the Development Review Board, binding the owner and heirs and assigns to maintain the required number of spaces either:
    - (i) throughout the existence of such use to which they are accessory; or
    - (ii) until such spaces are provided at another location approved by the Development Review Board.
- (9) **Existing Non-Conforming Parking.** Pre-existing parking spots that are currently legal non-conforming shall count towards the requirements for the number of spaces when expanding existing residential uses.
- (10) For development subject to site plan review, one or more of the following may be required by the Development Review Board as a condition of approval:
- a. a parking area management plan,
  - b. shared parking,
  - c. parking area landscaping, screening, lighting, and/or snow removal,
  - d. setbacks and buffers from surface waters of sufficient width to protect water quality,
  - e. associated pedestrian and transit facilities (e.g., paths, sidewalks, bus stops).
- (C) Loading Areas.** Off-street loading areas (open or enclosed berths) may be provided as an accessory use or structure, in accordance with the requirements set forth below. Any land which is developed as a unit under single ownership shall be considered a single lot for the purposes of these provisions:
- (1) Accessory off-street loading berths shall be provided for all uses as specified in Table 3.3.

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- (2) Each loading berth shall be at least 12 feet wide, 33 feet long, and 14 feet high, unless otherwise required by the Development Review Board under site plan review.
- (3) No loading berth shall be located in the front yard area and where feasible, loading zones and docks shall be located to the rear of properties.
- (4) Unobstructed access, at least 10 feet wide, to and from the road shall be provided. Such access may be combined with access to a parking lot.
- (5) All permitted or required loading berths shall be on the same lot as the use to which they are accessory; however joint facilities may be provided in spaces designed to serve two or more adjacent establishments as long as the total number of berths equals the total number required for each facility or use as set forth in Table 3.3.
- (6) Loading areas visible from any point off the property shall be appropriately screened by a thick hedge, wall or fence approved by the Development Review Board.

Table 3.3 Off-Street Loading Requirements	
Types of Use	Minimum Berth Requirements
Public institutions, schools, assembly facilities, residential care facilities with a minimum gross floor area of 10,000 square feet	1 berth for 10,000 sq.ft. of floor area, and 1 additional berth for each additional 25,000 sq.ft. of floor area or fraction thereof
Government, professional or business offices and laboratory facilities having a minimum gross floor area of 10,000 square feet	1 berth up for up to 25,000 sq.ft. of floor area, and 1 additional berth for each additional 50,000 sq.ft. of floor area or fraction thereof
Retail stores and service establishments having a minimum gross floor area of 8,000 sq.ft.	1 berth for up to 25,000 sq.ft. of floor area, and 1 additional berth for each additional 25,000 sq.ft. of floor area or fraction thereof
Funeral Homes	1 berth for each chapel or visiting room (such berths shall be at least 10 ft. wide, 20 ft. long, and 14 ft. high)
Lodging Facilities (hotels, motels, inns)	1 berth for each 25,000 sq.ft. of floor area, or fraction thereof
Manufacturing, wholesale, warehousing and storage uses, and dry cleaning and laundry facilities with a minimum gross floor area of 5,000 sq.ft.	1 berth for up to 10,000 sq.ft. of floor area, and 1 additional berth for each additional 20,000 sq.ft. of floor area or fraction thereof
Unspecified	As required by the Development Review Board under site plan review.

**(D) Service Areas.** For development subject to site plan review under Section 6.3, the Development Review Board may require on-site service areas for emergency vehicles, waste disposal and collection, bus, taxi or van service, or other purposes as may be necessitated by the

intended use. Required service areas shall be clearly marked and located in such a manner that they are not blocked or obstructed by other structures or parked vehicles. Landscaping and/or screening may be required as appropriate to minimize adverse impacts to public areas and adjoining properties.

**(E) Waivers.** The Development Review Board may waive on-site parking, loading and service area requirements for development subject to site plan review, upon determination under one or more of the following provisions that, due to circumstances unique to the development, the strict application of these standards is either unnecessary or inappropriate:

- (1) green space areas are to be set aside and maintained as open space for future conversion to parking, loading or service areas in the event that the areas initially permitted are subsequently deemed inadequate by the body having initial jurisdiction;
- (2) adequate shared parking, loading and/or service areas for use by two or more businesses exists on contiguous lots under common ownership or long-term lease;
- (3) adequate off-site public parking exists within reasonable walking distance of the establishment;
- (4) an employer reduces the need for on-site parking by offering a “transit pass” program or other acceptable evidence that employees will use carpool, vanpool, or other rideshare programs, walk or bicycle to work; or
- (5) the development is for affordable or elderly housing as defined herein.

#### **SECTION 3.10 : PERFORMANCE STANDARDS**

The following standards of performance must be met and maintained by all uses in all districts that would require site plan approval. No use of land or structures shall:

1. Emit odors, noise, dust, dirt, noxious smoke or gases or other disturbances which are offensive and uncharacteristic of the area, or which cause damage to any home, business, vegetation, or other property, or which endangers the health, safety, or welfare of the neighborhood.
2. Present an unreasonable risk of fire, explosion, or hazard to any adjoining property or vehicular traffic.
3. Cause sewage, toxic materials, heated water, sediments, or other harmful wastes to be discharged into any watercourse, which results in a degradation of the water quality. All local, state, and federal health standards shall be met.

**(B) Applicability.** Performance standards contained herein shall apply to all new development, including the alteration, conversion, expansion or relocation of existing uses, structures and/or

associated operations on a parcel. Pre-existing uses and operations in lawful existence as of the effective date of these regulations which exceed these standards shall be considered exempt until such time as they are discontinued or altered. Standards shall be invoked by the Administrative Officer against any use if there are reasonable grounds to believe that the performance standards are being violated by such use. In determining compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.

**(C) Application Requirements.** For development subject to site plan or conditional use review the application shall include a proposed construction plan, a description and specifications for all proposed machinery, operations, and products to be located and/or stored on-site, and a description of the methods or techniques to be used to ensure siting, use and operation in conformance with performance standards as listed under Subsection (D). The applicant also shall file with such plans and specifications a signed affidavit acknowledging their understanding of applicable performance standards and stating their agreement to conform with such standards at all times. No applicant will be required to disclose any proprietary-~~secret~~ process.

**(D) Performance Standards.** In accordance with 24 V.S.A.[\$4414(5)], the following performance standards must be met and maintained for all uses in all districts, except for agriculture and temporary forestry operations:

Table 3.4 Maximum Decibel Levels	
Frequency Band (Cycles per Second)	Decibel Level
20 – 75	69
75 – 150	60
150 – 300	56
300 – 600	51
600 - 1,200	42
1,200 - 2,400	40
2,400 - 4,800	38
4,800 - 10,000	35

- (1) **Fire & Explosion.** All activities involving the use and/or storage of flammable and explosive materials shall be equipped with adequate safety devices against the hazard of fire and



explosion, and adequate firefighting and fire suppression equipment and devices which are standard for such industry or activity. Burning of waste materials in open fires is prohibited.

- (2) **Vibration.** No vibration shall be produced through the ground which is discernible without the aid of instruments at or beyond the property boundary.
- (3) **Noise.** No noise which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted. The maximum sound pressure (decibel) level generated by any use, operation, or facility shall not exceed the values prescribed in Tables 3.4 for a continuous noise emitted from a facility or operation between the hours of 9 p.m. and 7 a.m., as measured from the lot line. If the noise is not smooth and continuous, and/or is not emitted between the hours of 9 p.m. and 7 a.m., one or more of the corrections in Table 3.5 shall be applied to decibel levels in Table 3.4.

Table 3.5 Decibel Corrections by Type of Noise and Operation	
Daytime operation only	+5
Noise source operates less than (consider only one):	
(a) 25% of any 1 hour period	+5
(b) 5% of any 1 hour period	+10
(c) 1% of any 1 hour period	+15
Noise is of an impulsive nature (e.g., hammering)	-5
Noise is of a periodic nature (e.g., hum, screech)	-5

- (4) **Smoke.** No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on a standard Ringelmann Chart issued by the U.S. Bureau of Mines (or direct facsimile thereof), except that visible grey smoke equaling No.2 may be emitted for not more than 4 minutes in any 30 minute period. These provisions also shall apply to visible smoke of any color having an apparently equivalent opacity.
- (5) **Odor.** No noticeable odors shall be discharged which are offensive and uncharacteristic of the area, or which may limit or damage the use of any public or private property or facility.

- (6) **Fly Ash, Dust, Fumes, Vapors, Gases & Other Forms of Air Pollution.** No emissions shall be permitted which can cause any damage to health, to animals, to vegetation, or other forms of property, or which can cause any excessive soiling at any point on or beyond the property.
- (7) **Heat.** For the purposes of these regulations, heat is defined as any thermal energy of a radioactive, conductive or convective nature. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property whether such change be in air.
- (8) **Direct Glare.** Direct glare is defined for purposes of these regulations as illumination beyond property boundaries caused by direct or arc lighting, or other source of light. No such direct glare shall be permitted with the exception that parking areas and walkways may be illuminated by luminaries with cutoff, hooded or otherwise shielded fixtures such that the maximum angle of the cone of direct illumination shall be 70 degrees, or for fixtures less than 4 feet in height, 90 degrees, as drawn perpendicular to the ground. Such luminaries shall be placed no more than 25 feet above ground level and the maximum illumination at ground level shall not exceed 3 foot-candles. For development subject to site plan or conditional use review, a lighting plan may be required.
- (9) **Indirect Glare.** Indirect glare for the purposes of these regulations is defined as illumination beyond property lines caused by diffuse reflection from a surface such as water, a wall, a window or the roof or a structure. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface not to exceed a maximum of 0.3 foot-candles, and an average of 0.1-foot candles. Deliberately induced sky-reflected glare (e.g., casting a beam upward for advertising purposes) is specifically prohibited.
- (10) **Liquid & Solid Wastes.** No discharge of liquid or solid wastes or other materials of such nature or temperature as can contaminate surface or groundwater, or otherwise cause the release of dangerous or offensive elements, shall be permitted at any point into any sewage disposal system, watercourse or lake, or into the ground, except in accordance with all applicable municipal, district, state, and federal regulations. There shall be no accumulation of solid wastes conducive to the breeding of rodents and insects.
- (11) **Farming & Forestry Operations.** Farming (agricultural) and forestry (silviculture) operations, as defined by the state in accordance with 24 V.S.A. §4413(d), are exempt from the provisions of these regulations (see Section 10.1), but at minimum shall follow Required Agricultural Practices (RAP), and Accepted Management Practices (AMP) for silviculture, as required by the state.

### **SECTION 3.12: SIGN REGULATIONS**

**(A) Purpose.** The purpose of this section is to permit the use of signs for both identification and limited advertisement.

**(B) Applicability.** A zoning permit issued in accordance with Section 10.1 shall be required prior to the construction, erection, placement, change in display, or substantial alteration of any sign. Existing signs shall be maintained, and new signs improved, only in accordance with the provisions of this section. Signs not provided for in this section, including all off-premises signs, are specifically prohibited.

**(C) Application Requirements.** An application for a sign permit shall include, in addition to applicable requirements of Section 10.1, the following information:

- (1) the location of the building, structure, or land on which the sign is to be located;
- (2) a description of all existing signs located on the property;
- (3) a detailed drawing or blueprint which shows:
  - (A) construction details, including all structural and supporting elements,
  - (B) lettering and/or pictorial composition,
  - (C) lighting, including type and positioning, and
  - (D) any other extraneous devices;
- (4) a location or siting plan which shows:
  - a. the sign position in relation to adjacent buildings, structures, public and private rights-of-way,
  - b. the sign position in relation building or structural elements (elevations, roof eaves, facades, etc.),
- (5) written consent of the owner of the property on which the sign is to be located;
- (6) a copy of any required or necessary electrical permit or permit application;
- (7) such other pertinent information that the Administrative Officer may require to ensure compliance with the provisions of these regulations.

**(D) Specific Requirements.** Signs shall meet all requirements as listed in Table 3.6

**(E) General Requirements.** In addition to the requirements of Subsection (D), no sign shall be maintained or improved which:

- (1) interferes with or resembles any official traffic control sign, signal or device, or which prevents the driver of any motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching, entering, or merging traffic; free standing signs shall not be placed within 25 feet of the traveled portion of a road or property line, or within 25 feet from any road intersection;

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- (2) does not cause undue glare, impair the vision of drivers or motor vehicles, or illuminate neighboring properties. All exterior lighting shall be down-directed and shielded so as to project only onto the sign, minimizing any glare;
- (3) contains any moving or animated parts, or is illuminated by flashing lights, except for barber poles and traffic control devices;
- (4) is located or painted on any tree, rock or other natural feature;
- (5) presents a safety hazard to pedestrians (e.g., by reason of hanging over public sidewalks or of not being securely fixed to a substantial structure or support);
- (6) is located on the roof of any building, or which extends above the eave or edge or the roof on that part or side of the building on which it is located; or
- (7) is located within or projects over a public or private right-of-way.

**Table 3.6 Sign Requirements [Maximum]**

	Type	No.	Area <sup>a</sup>	Height <sup>b</sup>	Other
(1) Business/All  [Except within an approved industrial park]	Wall	2	1 sq. feet/ foot of building length	Shall not extend above the roof eave	Mount facing street from which access is provided; attach to wall parallel to the building face; cannot project more than 1 foot beyond building face
(2) Business/Village	Free standing	1	25 sq. feet.	10 feet	Allowed for businesses in the Village, in addition to wall signs under (1)
	Easel/ Sandwich Board	1	12 sq. feet.	6 feet	Allowed in addition to others; may be displayed only during hours of operation
(3) Business/Town	Free standing	1	50 sq. feet.	15 feet	Allowed for businesses outside the village, in addition to wall signs under (1)
	Easel/ Sandwich Board	1	32 sq. feet.	8 feet	Allowed in addition to others; may be displayed only during hours of operation
(4) Home-Based	Wall or Free standing	1	8 sq. feet.	6 feet	Intended for all types of home-based businesses

**Table 3.6 Sign Requirements [Maximum]**

	Type	No.	Area <sup>a</sup>	Height <sup>b</sup>	Other
Businesses					including B&Bs, childcare, etc.
(5) Public Assembly	Wall or Freestanding Bulletin Board	1	25 sq. feet.	10 feet	Intended for schools, churches and similar public meeting facilities
(6) Farm/Roadside Stand	Wall or Free standing	1	20 sq. feet.	10 feet	On premise sign; may remain in place off-season when stand is not in operation
(7) Residential Development	Free standing	1	12 sq. feet.	10 feet	Multi-family developments, residential subdivisions
(8) Temporary/Construction	Free Standing	1	20 sq. feet.	10 feet	Shall be removed upon completion of the construction project
(9) Temporary/Real Estate	Free Standing	1	6 sq. feet.	10 feet	Allowed on any lot for sale or lease; shall be removed upon sale or lease

a. Area is given for a single side or sign face [including any supporting frame or structure]; freestanding signs shall have no more than 2 faces (front and back).

b. Height is as measured from ground level to the top of the sign or supporting structure, whichever is higher.

**(F) Maintenance & Removal.**

- (1) All signs shall be maintained in a safe and secure condition. Nothing in these regulations shall prevent normal sign maintenance and repair, including the replacement of broken parts. If the Administrative Officer is of the opinion that a sign is not safe, secure, or in a good state of repair, a written warning and/or notice of violation under Section 9.5 may be issued with a request that any defect in the sign be immediately corrected. Any costs incurred by the municipality for the repair or removal of such signs shall be assessed against the owner of the land or building on which the sign was located.
- (2) Any sign which advertises a business or product which is no longer conducted or available on the premises shall be removed immediately by the owner. If the sign is not removed within one month of the date of discontinuance, the Administrative Officer may take enforcement action under Section 9.5. Any costs incurred by the municipality for the removal of such signs shall be assessed against the owner of the land or building on which the sign was located.

**SECTION 3.12: STEEP SLOPES**

All excavation, filling, or regrading of land having a slope of fifteen percent (15%) or more shall be subject to review by the DRB under Site Plan Review procedures. Under this provision, the DRB may also require for review and approval the submission of erosion control and stormwater management plans prepared by a licensed professional engineer which:

1. Cover all phases of development, including site preparation, construction, and post construction.
2. Incorporate accepted or best management practices for erosion control and stormwater management.
3. Identify related long-term maintenance and management requirements.

**(A)** Development on slopes equal to or in excess of 15%, or which results in such slopes, shall be subject to conditional use review under Section 6.4 and the following provisions:

**(B)** Development is specifically prohibited on slopes in excess of 25%.

**SECTION 3.13: RIPARIAN BUFFERS**

Riparian buffers are measured horizontally from the mean water level for lakes and from the top of bank or top of slope of streams. In locations with rare, threatened, endangered or sensitive species, significant natural communities, the riparian buffer distance may be increased at the discretion of the DRB.

(1) Applicability The requirements of this Section shall apply to all lands as follows:

- (a) All land within fifty (50) feet horizontal distance from the top of bank or slope of the main stem of any river or stream.
- (b) All land within ten (10) feet horizontal distance from the top of bank or slope of a drainage way
- (c) Land within two-hundred fifty (250) feet or abutting the mean water elevation of Lake Champlain, which for the purposes of these regulations shall be ninety-five and one-half (95.5) feet above mean sea level datum (National Geodetic Vertical Datum of 1929 'NGVD29').

**(A)** Surface waters and their buffers are valuable to people and vital to our natural resources. The floodplains, wetlands, and wooded slopes along streams are very important parts of the stream ecosystem, and in many ways determine the diversity and health of a stream. The maintenance and enhancement of streamside and lakeside vegetation is the easiest and most effective means of protecting the many benefits and values associated with Swanton's

waters. Thus, the Town of Swanton requires that an undisturbed naturally vegetated buffer strip be maintained from the shores of lakes and ponds, from each bank of streams and rivers, and Class 1 and 2 wetlands for several reasons, it:

- (1) Stabilizes banks and holds soil in place;
- (2) Supports trees that drop leaves as food;
- (3) Provides a refuge for threatened animals and plants;
- (4) Takes up excess nutrients in the roots and recycles them;
- (5) Decreases flood severity;
- (6) Holds water;
- (7) Filters stormwater runoff pollutants;
- (8) Hides wildlife predators and their prey;
- (9) Keeps stream shaded and cool;
- (10) Supports recreational activities;
- (11) Provides drinking water for the community; and
- (12) Provides crop-saving irrigation for farmers during droughts.

**(B) New Structures.** New structures or alteration of existing structures for transportation facilities, transmission lines, and sewer, water and gas lines may be constructed in buffers only if no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the buffer, acceptable management practices, soil conservation and water quality plans are required.

**(C) Existing Structures.** Existing structures already located in the buffer may be removed, restored, repaired, maintained, or enhanced. Enlargements no more than 20% may be allowed with approval from the Development Review Board as a conditional use, but the applicant must submit a mitigation plan that includes acceptable management practices. The Development Review Board may impose conditions such as:

- (1) Planting native species such as willow, silver maple, or cottonwood along the riverbanks.
- (2) Allowing a natural buffer to form from the edge of the lawn to the water. This can simply be done by not mowing to the edge of the property along the waterway.

(3) Re-positioning rain gutters so that they drain to the lawn instead of pavement.

**(D) Prohibited Activities.** The following uses shall be prohibited within buffer strips:

- (1) Except as permitted in 3.14(B) above, no alteration of streambed or bank, except to reduce erosion, and maintenance of stream crossings for agricultural purposes.
- (2) In general, disturbances to natural vegetation are prohibited. These include disturbances by tree removal, clearing, burning, and spraying. No pesticide use or storage.
- (3) No storage for motorized vehicles. No use of motorized vehicles except for approved maintenance and emergency use.
- (4) No soil disturbance from grading, plowing, except with approved soil conservation and water quality plan.
- (5) No mining or excavation, except existing uses, no dredging except as permitted by State law.
- (6) No deposit or landfill or reuse, solid or liquid waste; fill allowed only as approved by the Army Corps of Engineers.
- (7) No storage of materials.
- (8) No dumping.
- (9) No fill to expand development area.

**(E)** For development subject to subdivision, site plan, or conditional use review, the Development Review Board may require increased setback distances, limit access, and/or a buffer area management plan, if it is determined that such measures are needed based on site, slope and soil conditions and the nature of the proposed use.

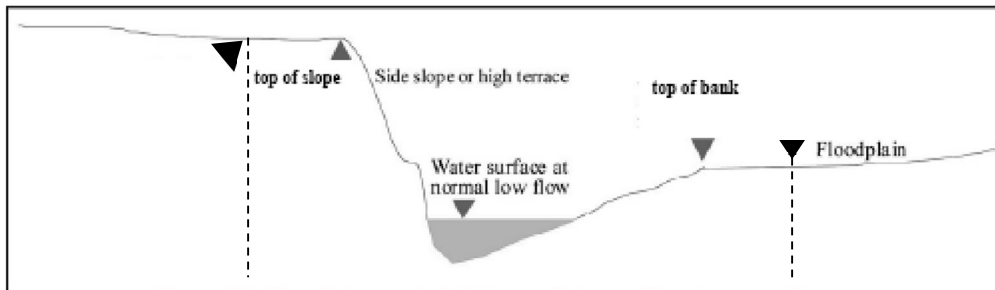
**(F)** In hardship cases, the Applicant may apply to the Development Review Board for Conditional Use approval to waive or modify buffer requirements in accordance with a management plan that provides equal or better water quality protection, requires mitigation measures to compensate for loss of habitats, and does not adversely affect habitats of threatened and endangered species.

**(G)** The width of the buffer strip shall be in accordance with Table 3.7 below and should be measured from the top of bank or top of slope, depending upon characteristics of the waterway (see Figure 3.3). No development or approved management practices shall occur within the buffer strips.



**Table 3.7 Minimum Width of Buffer Strips (feet along the ground surface)**

Type of Waterway	Required Buffer
All rivers, streams and wetlands (class 1 and 2)	50 feet
Hungerford Brook	75 feet
Missisquoi River	100 feet
Lakes and ponds (not including Lake Champlain)	50 feet



### Section 3.14: Wastewater Systems

**(A) Applicability.** No building or structure shall be erected, altered or converted to another use unless an adequate wastewater disposal system is provided in compliance with all applicable municipal and state regulations in accordance with 10 V.S.A. Chapter 64. Wastewater disposal and potable water supply shall be regulated by the Vermont Agency of Natural Resources (ANR), DEC, Environmental Protection Rules, Chapter 1, Wastewater System and Potable Water Supply Rules, effective September 29, 2007, or as periodically revised or amended. Applicants proposing land development shall contact the ANR District Permit Specialist to determine if a Wastewater and Potable Water Supply Permit is required by the VT DEC in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules. This includes, but is not limited to:

- (1) all new seasonal, accessory or single-family dwellings, multi-family dwellings, commercial, industrial and mixed use buildings;
- (2) alterations to existing structures which could result in the increased generation of wastewater, including but not limited to the addition of bedrooms, accessory apartments, and/or a water system;
- (3) changes in use that could result in the increased generation of wastewater, including but not limited to the conversion of a seasonal dwelling to year-round use, or the conversion of a single-family dwelling to two-family or multi-family dwelling.

**(B)** If, according to the VT DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner or applicant shall provide written proof, from the VT DEC, of such

to the Administrative Officer. Where a Wastewater System and Potable Supply Permit is required, initiation of construction under a Zoning Permit issued in accordance with the Town of Swanton Development Regulations shall be prohibited unless and until a Wastewater System and Potable Water Supply Permit is issued and approval provided to the Administrative Officer.

**(C)** If a Wastewater System and Potable Water Supply Permit under Section 3.15 is required, the Administrative Officer will not issue a Certificate of Occupancy until such permit has been issued and filed in the Swanton Land Records and a statement that the wastewater disposal system has been constructed in full compliance with the permit has been submitted by the qualified designer as defined in the Wastewater System and Potable Water Supply Rules.

**(D)** These provisions shall not apply to the normal maintenance of an existing sewage disposal system, including periodic pumping and cleaning.

### **SECTION 3.15: DWELLINGS PER LOT**

**(A)** There shall be no more than two residential buildings per lot except as provided in Sections 9.4 and 9.5.

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Per 24 V.S.A. § 4412 (13), In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall permit any affordable housing development, as defined in 24 V.S.A. § 4303(2), including mixed-use development, to exceed density limitations for residential developments by an additional **40 percent**, (rounded to the nearest full unit), which shall include exceeding maximum height limitations by one floor, provided that the structure complies with the Vermont Fire and Building Safety Code.

### **SECTION 3.16: NATIVE AMERICAN SITES DISTRICT**

**(A) Purpose.** To create trust, confidence and harmony between property owners and Native Americans; to insure property owners' rights, privacy and property values; to preserve and protect Native American ancestral burial grounds, establish standards and procedures to identify sites that contain such remains and provide for their protection without undue burden on property owners. The Town, working together with the State of Vermont, Native American representatives and private property owners, will initiate efforts to develop long-term methods to ensure that the remains of Native Americans are managed within a respectful manner without placing unreasonable restrictions on lands which contain such remains.

#### **(B) Definitions.**

**Division of Historic Preservation** – That division within the Vermont Department of Housing and Community Affairs created pursuant to 22VSA § 721 to coordinate historic preservation activities on behalf of the State of Vermont.

**State Historic Preservation Officer** – That individual appointed pursuant to 22 VSA § 761(a) to conduct and maintain a survey of sites of archeological and anthropological specimens within the state.

**State Archeologist** – That individual employed by the state historic preservation officer pursuant to 22 VSA § (a) to conduct and maintain a survey of sites of archeological and anthropological specimens within the state.

**Qualified Anthropologist** – An individual who, by education and professional experience, has the expertise to identify human remains and determine their cultural origin.

**Qualified Professional** – An individual who, by education and professional experience, has the expertise to identify human skeletal remains.

**Significant concentration of human remains** – An area having four (4) or more sets of human remains per one thousand (1,000) square foot area.

**Minimal concentration of human remains** – An area having three (3) or fewer sets of human remains per one thousand (1,000) square foot area.

**Site Examination** – The study of human remains at any site by means of surveying, digging, sampling, excavating or removing surface or subsurface materials.

**Native American Representation** – A member of the Abenaki Tribal Council.

**Governor's Advisory Commission on Native American Affairs** – That commission established pursuant to Executive Order No. 97-90 on November 22, 1990, which executive order is codified in the chapter 18 of the appendix to Title 3 of the Vermont Statutes annotated.

**(C) Permit Requirement:** Land development located in the NASD shall comply with the requirements of the underlying zoning district in addition to the following requirements:

- (1) Upon determination that the proposed land development does not involve excavation to a depth more than eighteen inches (18") below existing grade, and upon determination that all proposed land development is in accordance with the underlying zoning district standards and all other aspects of these regulations, the Administrative Officer shall issue a permit.
- (2) Upon determination that the proposed land development does involve excavation to a depth more than eighteen inches (18") below existing grade, the Administrative Officer shall attempt to determine based on information obtained pursuant to **Section E** below, whether any portion of the area to be excavated is within ten feet (10') of an area on the site containing a significant concentration of human remains. An applicant may provide

such information but is not required to do so.

- a. Upon determination that the area to be excavated is not within ten feet (10') of an area on the site containing concentration of human remains, the Administrative Officer shall issue a permit allowing excavation to proceed with due caution.
  - b. Upon determination that the area to be excavated is within ten feet (10') of an area on the site containing a significant concentration of human remains, no permit may be issued. The Town will work with the property owner, Native American representatives, and other interested federal, state, local and private interests to preserve and protect the affected parcel or area.
  - c. If the information described in **Section D** is not provided or is unavailable, the Administrative Officer shall issue a permit subject to express requirements that:
    - i. The applicant provides the Town six (6) business days advance notice before initiating any excavation.
    - ii. The Town shall, at its expense, have a qualified professional on the property to monitor activity during the period that excavation occurs. This monitor must be on site when excavation first begins and shall have authority to order an immediate cessation of excavation work upon discovery of any human remains.
    - iii. Applicant shall immediately cease excavation work when so ordered by the Town's monitor. Once ordered to cease excavation work, Applicant shall not resume excavation work until authorized to do so by the Administrative Officer.
    - iv. Upon discovery of human remains, the Town may, at its expense, conduct further examination of the area to be excavated in the manner set forth in **Section D(2)** below. The Administrative Officer shall not authorize resumption of excavation work until completion of the actions and/or expiration of the time periods set forth in **Section E** below.
- (3) Any permit issued pursuant to this by-law shall require compliance with the requirements of **Section E**, below.

**(D) Examination of Property:**

- (1) Determination that a proposed excavation site contains or does not contain human remains subject to the provisions of this by-law shall be based on information prepared by a qualified professional following examination of the proposed site using the best non-intrusive technology available. At the property owner's request, the services of a qualified professional
- (2) may be obtained by:
  - a. any property owner, at no expense to the Town; or
  - b. the Town, at its expense; or

- c. the State Historic Preservation Officer, at the State's expense; or
  - d. a Native American Representative, at no expense to the property owner.
- (2) Any site examination conducted by the Town, State Historic Preservation Officer, or Native American representative shall comply with the following requirements:
- a. be subject to a property owner's consent, except as provided in **Section E(4)** below;
    - a. be performed in a professional manner that minimizes disturbance of the owner's property and minimizes inconveniences to the owner;
    - b. provides for restoration of any disturbed property to a condition adequate to return the property to its pre-disturbance state within a reasonable time following completion of the examination;
  - c. be performed at no expense to the property owner.

**(E) Procedure Upon Discovery of Human Remains:**

- (1) The Administrative Officer and/or property owner shall contact the Vermont State Police for determination of whether human remains are part of a criminal incident. During this period, the property owner shall take such actions as the State Police direct and are necessary to protect the remains from the elements.
- (2) Upon notification from the State Police that the human remains are unrelated to a criminal incident, the Administrative Officer shall promptly contact a qualified anthropologist selected by the Town Selectboard for determination of the cultural origin of the remains. The anthropologist will be asked to report such determination to the Administrative Officer within six (6) business days.
- (3) If the anthropologist reports that the remains are not Native American, or if the anthropologist fails to make a determination within the requested time, the Administrative Officer shall authorize resumption of excavation work. Thereafter, the property owner shall make disposition of the remains in accordance with 18 V.S.A. §5212 and any other applicable law. The notification and examination process set forth in **Section E** shall be followed if further human remains are discovered upon resumption of excavation work.
- (4) If the remains are determined to be Native American, the Administrative Officer will notify the property owner, the Governor's Advisory Commission on Native American Affairs, the State Historic Preservation Officer and a Native American representative. Determination that the remains are Native American will provide authorization for the Town to conduct a site examination pursuant to **Section D(2)** above.

- (5) If it is determined following the site examination that the area to be excavated contains a minimal concentration of human remains, the Administrative Officer shall within five (5) business days of such determination, hold a meeting to discuss disposition of the remains. The Administrative Officer shall invite the property owner, the State Historic Preservation Officer and a Native American representative to this meeting.
- a. At this meeting, the participants will discuss options for disposition of the remains which shall include, without limitation:
    - i. Leave the remains in place and move the project to avoid the remains or continue the project in a manner that will not further disturb the remains; or
    - ii. Leave the remains in place and discontinue the project; or
    - iii. Leave the remains in place and arrange for permanent protection of the area in which they are located; or
    - iv. Allow the remains to be removed from the property by the Native American representative within seven (7) days of this meeting.
  - b. If the property owner and the Native American representative agree on disposition of the remains, the Administrative Officer shall modify the existing permit or void any existing permit and issue a new permit which shall incorporate as conditions the agreed-upon disposition.
  - c. If the property owner and the Native American representative do not agree on disposition of the remains, the Native American representative shall have seven (7) days from the date the meeting concludes to remove the remains. If the remains have not been removed, the property owner shall make disposition of the remains in accordance with 18 V.S.A. §5212 and any other applicable law. The Administrative Officer shall promptly authorize resumption of excavation work upon expiration of such time periods.
- (6) If it is determined following the site examination and any excavation that the area to be excavated is within ten feet (10') of an area on the site containing a significant concentration of Native American remains, the Administrative Officer shall void any existing permit. Within five (5) business days of such determination, the Administrative Officer will hold a meeting to discuss preservation and protection of the remains. The Administrative Officer shall invite the property owner, the State Historic Preservation Officer, and a Native American representative to this meeting. The participants will discuss options for leaving the remains in place and arranging for permanent protection of the area in which they are located by acquisition of the land or rights in the land.

## **ARTICLE 4: Flood Hazard and River Corridor**

### **SECTION 4.1: APPLICABILITY**

In accordance with 24 V.S.A. Chapter 117, §§ 4424 and 4414, this is a bylaw for areas at high risk of flood damage in the Town and Village of Swanton, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117 and 44 CFR § 60.3(d).

### **SECTION 4.2: RIVER CORRIDOR PROTECTION**

#### **A. Purpose**

River corridors provide rivers and stream channels with the space necessary to maintain or reestablish floodplain access and to reduce erosion hazards through natural physical processes. It is the intent of this bylaw to protect public health and safety by avoiding new encroachments into river corridors and minimizing erosion-related damage to existing structures.

A permit is required from the AO for all development that is located within the River Corridor except as provided herein. Where River Corridors and Flood Hazard Areas overlap, the Flood Hazard Area provisions shall also apply.

#### **B. River Corridor Boundaries**

1. This article applies to the River Corridors in the Town of Swanton Vermont, as published by the Agency of Natural Resources (ANR) including refinements to that data which are hereby adopted by reference.
2. On streams with a watershed size greater than half a square mile for which River Corridors are not mapped, the standards shall apply to the area measured as 50 feet from the top of the stream bank or slope.
3. The information presented on any maps, or contained in any studies adopted by reference, is presumed accurate. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary on the property shall be determined by the Administrative Officer (AO).
4. If the applicant disagrees with the determination made by the AO or with the river corridor as mapped, the applicant has the option to either:
  - a. Hire a licensed land surveyor or registered professional engineer to stake out the River Corridor boundary as mapped on the property; or,
  - b. Provide data as needed for ANR to update the river corridor map following the Flood Hazard Area and River Corridor Protection Procedure (“Procedure”); or

- c. Request a letter of determination from ANR that the proposed development meets the Performance standard in the Procedure.

## **C. Development Review in River Corridors**

### **Section 4.4: Exempted Activities**

The following activities do not require a permit under this section of the bylaw:

- a. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged;
- b. Any changes to a structure that will not change the footprint of the structure;
- c. Maintenance of existing sidewalks, roads, parking areas, stormwater drainage, bridges, culverts, and channel stabilization;
- d. Functionally dependent uses that must be placed in or cross over rivers and streams, that are not located in a flood hazard area, and that have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder including the construction, removal, or repair of bridges and culverts, associated transportation and utility networks, dams, and dry hydrants;
- e. Planting projects which do not include any construction or grading;
- f. Subdivision of land that does not involve or authorize development;
- g. Activities exempt from municipal regulation and requiring a permit from ANR under the Vermont Flood Hazard Area and River Corridor Rule (CVR 12-030-024) including:
  - i. State-owned and operated institutions and facilities;
  - ii. Forestry operations or silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation;
  - iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture, Food and Market's Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the AO in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks;
  - i.
  - iv. Public utilities regulated under 30 V.S.A. § 248;



- v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

**Section 4.5: Prohibited Development in the River Corridor**

- a. New structures, fill, and development that do not meet the standards in Section 4.8 Development Standards;
- b. Any other development that is not exempt, permitted, or listed as a conditional use which would cause or contribute to fluvial erosion hazards.

**Section 4.6: Permitted by Administrative Review**

The following development activities meeting the Development Standards in the River Corridor in Section 4.8, may be permitted directly by the AO:

- a. Small accessory structures not larger than 500 square feet;
- c. Improvements to utilities along an existing right of way and serving a building;
- d. Replacement on-site septic systems;
- e. Access and parking;
- f. An attached deck or patio to an existing structure that is 200 square feet or less and is located no less than 100 feet from the top of bank;
- g. Unimproved trails on native grades and soils that will be relocated as needed to accommodate channel adjustments and avoid degradation to bank stability and riparian habitat;
- h. River or floodplain restoration projects that do not involve fill, structures, utilities, or other improvements, and which have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;

**Section 4.7: Conditional Use Review**

Conditional use review and approval by the DRB in accordance with 24 V.S.A. § 4461 is required prior to the issuance of a permit by the AO for any activity in the River Corridor that is not exempt, prohibited, or eligible for administrative review.

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**Section 4.8: Development Standards within the River Corridor**

These are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence.

**1. In-Fill:** Development must be located no closer to the top of bank than the existing primary structures, within a gap that is no more than 300 feet (see Figure 1), or

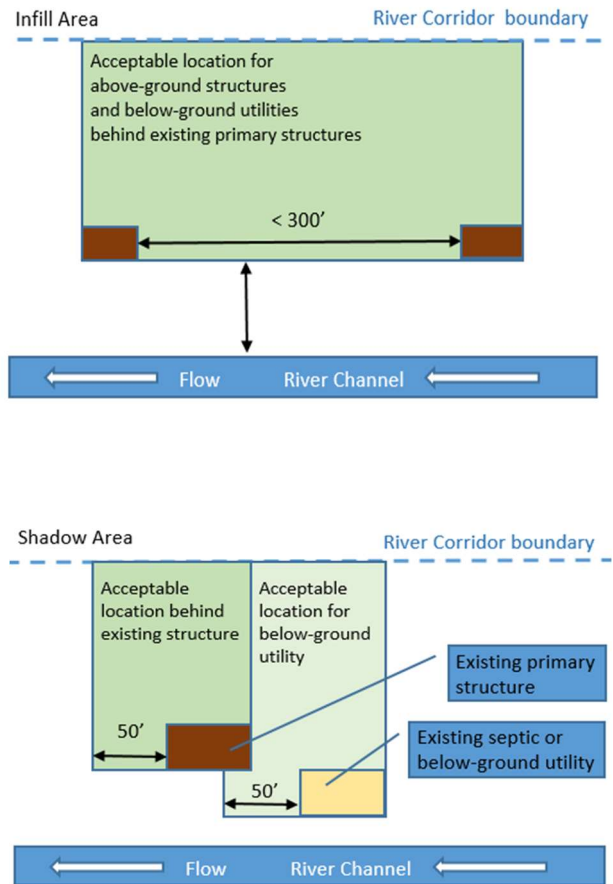
**2. Down River Shadow:** An addition to an existing habitable structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system (see Figure 2). Only primary structures existing before this bylaw may be considered for shadowing other development.

**3. River Corridor Performance Standard**

Proposals that do not meet the infill or shadowing criteria in this section must demonstrate, and the DRB must find, that the proposed development will:

- a. not be placed on land with a history of fluvial erosion damage or threatened by fluvial erosion; and,
- b. not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and,
- c. not result in a need for bank armoring or stream channelization as a result of the proposed development, that would increase flood elevations and velocities, or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.

The DRB may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards; and comments provided by the DEC



## **Article 4: Flood Hazard and River Corridor**

Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.

New paths or alterations to paths that provide access to the water for the public, and promote the public trust uses of the water, shall not necessitate bank armoring, and must be relocated when the channel adjusts toward the path.

### **SECTION 4.9: FLOOD HAZARD AREA PROTECTION**

**A. Purpose** - To protect public health and safety by avoiding cumulative increases in flood elevations, velocities, and river instability; the cumulative loss of beneficial floodplain functions; and to minimize flood damage to development and services already located within this hazard zone.

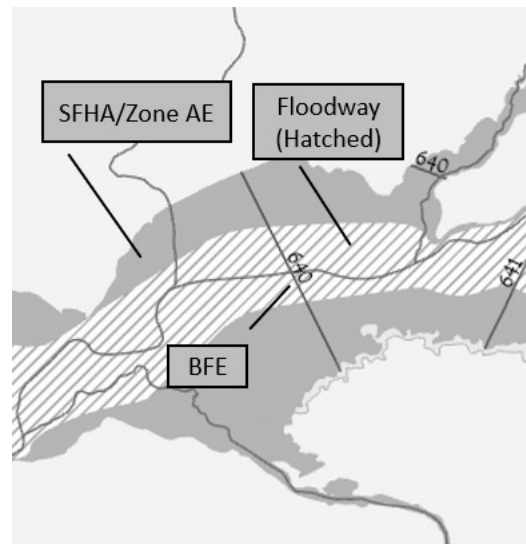
### **SECTION 4.10: Lands to Which this Bylaw Applies**

#### **1. Flood Hazard Areas**

This bylaw shall apply to the Special Flood Hazard Areas (SFHA) as mapped in the Town of Swanton, Vermont identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of this bylaw.

#### **2. Base Flood Elevations and Floodway Limits**

- a. Where available, base flood elevations (BFE) and floodway limits provided by the NFIP and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce this bylaw.
- b. The floodway, as adopted by this community, shall consist of the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
- c. In the SFHA where base flood elevations and/or floodway limits have not been provided by the NFIP in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or state or federal agencies to administer this bylaw.



- d. If the Town acquires data that indicates a change in published base flood elevations, the Town will, within 6 months, submit the technical or scientific data to Vermont ANR and the NFIP Map Specialist.

#### **SECTION 4.11: Jurisdictional Determination**

1. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.
2. If uncertainty exists with respect to the boundaries of the Flood Hazard Area, the location of the boundary shall be determined by the Administrative Officer (AO).

#### **SECTION 4.12: Development Requirements in the Flood Hazard Areas**

##### **1. Permits**

Except as provided in Section V D.2 Exempted Activities, a permit is required from the AO for all development that is located within the Special Flood Hazard Area. Development that requires conditional use approval or a variance from the Development Review Board (DRB) under this bylaw must have such approvals prior to the issuance of a permit by the AO. All permits shall require that a permittee have all other necessary permits from state and federal agencies before work may begin.

##### **2. Exempted Activities**

The following activities do not require a permit under this section of this bylaw:

- a. The removal of a building in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged;
- b. Routine maintenance of existing buildings;
- c. Interior improvements or repairs to existing buildings that cost less than 500 dollars;
- d. Maintenance of roads, bridges, or stormwater drainage;
- e. Streambank stabilization, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required;
- f. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c);
- g. Subdivision of land that does not involve or authorize development;

h. The following activities are exempt from municipal regulation, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):

- i. State-owned and operated institutions and facilities;
- ii. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation;
- iii. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs). Prior to the construction of farm structures, the farmer shall notify the AO in writing of the proposed activity. The notice shall contain a sketch of the proposed structure including setbacks meeting community requirements;
- iv. Public utilities regulated under 30 V.S.A. § 248;
- v. Telecommunications facilities regulated under 30 V.S.A. § 248a;

### 3. Administrative Review; Permitted Development

The following development activities in the Special Flood Hazard Area and meeting the Development Standards in Section V E, may receive a permit from the AO without review by the DRB:

- a. Outside of the Floodway:
  - i. Accessory structures not greater than 500 square feet;
  - ii. New fill for existing associated transportation and utility networks or to accommodate a replacement on-site septic system, if it can be demonstrated that no other practicable alternative is available;
  - iii. Recreational vehicles or travel trailers;
  - iv. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;

b. Within the entire Special Flood Hazard Area:

- i. Improvements or repairs from damage to structures that do not expand the existing footprint and do not meet the definition of “substantial improvement” or “substantial damage”;
- ii. Building utilities;
- iii. At or below grade development (e.g. parking areas);
- iv. Open fencing or posts;
- v. Municipal transportation infrastructure improvements designed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw;

4. Prohibited Development:

- a. New critical facilities;
- b. New residential or non-residential structures in the Floodway;
- c. Storage of materials or junk yards;

5. Conditional Use Review

In accordance with 24 V.S.A. § 4414, conditional use review and approval by the DRB is required prior to the issuance of a permit by the AO for any activity in the Special Flood Hazard Area that is not exempt, prohibited, or eligible for administrative review.

**SECTION 4.13: Development Standards within the Flood Hazard Area**

1. No net loss of flood storage capacity,

- a. Except as needed to fill an existing basement or mitigate an existing structure;

2. All development below the DFE, except development that is exempt under Section V D2, shall be:

- a. Reasonably safe from flooding;
- b. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
- c. Constructed with materials resistant to flood damage;

#### ***Article 4: Flood Hazard and River Corridor***

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- d. Constructed by methods and practices that minimize flood damage;
  - e. 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;
  - f. Adequately drained to reduce exposure to flood hazards;
3. Fuel storage tanks and vents must be elevated above the DFE and securely anchored; Storage tanks may be placed underground if a qualified professional certifies the installation will be anchored and protected from flood forces.
4. In Zones AE and A1 – A30 where 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 one foot at any point within the community. The demonstration shall be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer;
5. Recreational vehicles, equipment, boat trailers, portable toilets, construction trailers, and other travel trailers shall:
- a. Be currently registered, licensed, and ready for highway use; or
  - b. Be on site for fewer than 180 consecutive days; or
  - c. Meet the requirements for structures in Section V E 12;
6. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
9. The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream equilibrium;
10. Bridges, culverts, and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required;
11. Subdivisions and Planned Unit Developments shall be accessible by dry land access;

#### **Structural Standards**

#### ***Article 4: Flood Hazard and River Corridor***

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- a. New or Substantially Improved structures shall have the lowest floor, including basement, elevated to or above the Design Flood Elevation (two feet above base flood elevation). This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate;
- b. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:
  - i. Meet the standards of Section V E 12a, above; or,
  - ii. Have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that to at least two feet above the base flood elevation the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;  
A permit for dry floodproofing 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;
- c. New or Substantially Improved structures in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the community's FIRM, or at least three feet if no depth number is specified;
- d. Critical facilities to be substantially improved shall have the lowest floor, including basement, elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher;
- e. Historic structures being substantially improved shall meet the requirements in this bylaw other than the Lowest Floor Elevation;
- f. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited;
- g. Fully enclosed areas below the lowest floor, that are above grade, below the DFE, and subject to flooding, shall:
  - i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for



the entry and exit of floodwaters. Such designs shall be certified by a registered professional engineer or architect; or,

ii. meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent 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; and

iii. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation if adequate flood openings are provided, the structure is placed on the site so as to offer the minimum resistance to the flow of floodwaters, and the construction meets the criteria in Section V E2 above.

13. Within the Floodway new encroachments are prohibited except for the following, which also shall comply with Section V F.2, below:

a. changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;

b. new encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects;

c. new encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available.

14. Within the Floodway all proposed new encroachments are required to provide a hydraulic analysis, performed by a registered professional engineer, in accordance with standard engineering practice, certifying that the proposed development will:

a. Not result in any increase in flood levels during the occurrence of the base flood;

b. Not increase base flood velocities; and,

c. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

15. For development that will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre- and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

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## **ARTICLE 5: SPECIFIC USE STANDARDS**

### **SECTION 5.1: APPLICABILITY**

The following standards shall apply to the specified uses in all zoning districts in which such uses are allowed. Specified uses may be subject to site plan review in accordance with Section 5.3 and/or conditional use review in accordance with Section 6.4. If there is a conflict between a standard in this section and a standard in another section of these regulations, the more restrictive standard shall apply.

### **SECTION 5.2: ACCESSORY DWELLING**

(A) An accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling shall be a permitted use provided there is compliance with all of the following, or as listed in 24 V.S.A. § 4412.

1. The owner occupies either the primary dwelling or accessory dwelling.
2. The property has sufficient wastewater capacity as allowed by the Department of Environmental Conservation.
3. The unit does not exceed 40% or 900 square feet, whichever is greater of the total habitable floor area of the single family dwelling.
4. Applicable setback, coverage and parking requirements specified in these regulations are met for the creation of a new accessory structure or the increase in height or floor area of the existing dwelling.

(B) Up to two dwelling units which are accessory to an operating farm may be permitted by the Administrative Officer, subject to the following standards:

- (1) the accessory dwellings are occupied by employees working on said farm, and their immediate family;
- (2) the accessory dwellings are each located not less than 50 feet from any existing dwelling, public highway, or abutting property boundary; and
- (3) the accessory dwellings are removed from the premises if the parcel ceases to be an operating farm.

**SECTION 5.3: ACCESSORY ON-FARM BUSINESSES**

In accordance with [24 V.S.A. § 4412](#), no bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as the farm.

Accessory on-farm business means activity on a farm, the revenues of which may exceed the revenues of the farming operation, and comprises one or both of the following:

- a. The storage, preparation, processing, and sale of qualifying products, provided that the qualifying products are produced on a farm; the sale of products that name, describe, or promote the farm or accessory on-farm business, including merchandise or apparel that features the farm or accessory on-farm business; or the sale of bread or baked goods.
- b. Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (II), “farm stay” means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

(ii) “Farm” means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee’s own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease period.

(iii) “Farming” shall have the same meaning as in 10 V.S.A. § 6001.

(iv) “Qualifying product” means a product that is:

- (I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;
- (II) livestock or cultured fish or a product thereof;
- (III) a product of poultry, bees, an orchard, or fiber crops;
- (IV) a commodity otherwise grown or raised on a farm; or
- (V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

## **Article 5: Specific Use Standards**

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(v) “RAP rules” means the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

(B) Eligibility. For an accessory on-farm business to be eligible for the benefit of this subdivision, the business shall comply with each of the following:

(i) The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.

(ii) The farm meets the threshold criteria for the applicability of the RAP rules as set forth in those rules.

(C) Use of structures or land. An accessory on-farm business may take place inside new or existing structures or on the land.

(D) Review; permit. Activities of an accessory on-farm business that are not exempt under 24 V.S.A §4413 may be subject to site plan review pursuant to 24 V.S.A §4416.

### **SECTION 5.4: ADAPTIVE REUSE OF A BUILDING**

**(A) Purpose.** To encourage the viability, reuse, restoration and rehabilitation of historic barns, buildings and commercial buildings which are no longer associated with their original use, by allowing for uses, including uses not otherwise allowed in the district in which they are located, within the current dimensions of such buildings. Any changes associated with the adaptive reuse shall not significantly alter the facade of the building.

**(B) Applicability.** All adaptive reuse, and associated restoration and/or rehabilitation, of historic barns and/or buildings and commercial buildings shall be considered a conditional use subject to review by the Development Review Board under Section 6.4 and the provisions of this Section. Historic barns, for the purposes of these regulations, shall include all barns which are 50 years old, and/or are listed or eligible for listing on the state register of historic sites and structures. Historic Buildings, for the purposes of these regulations, shall include all buildings listed or eligible for listing on the Vermont Historic Sites and Structures Survey for the Town of Swanton, or the National Register of Historic Places. Commercial buildings, for the purposes of these regulations, shall include all buildings whose primary use has not been residential.

**(C) Allowed Uses.** The following uses may be allowed, subject to conditional use review:

- (1) Permitted and conditional uses allowed in the district in which the barn/building is located.
- (2) The following uses, if not otherwise allowed in the district:
  - a. Agribusiness (including the sale of agricultural products)

## **Article 5: Specific Use Standards**

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- b. Arts and Crafts Shop, Studio or Gallery
- c. Antique Shop
- d. Motor Vehicle and/or Boat Repair Shop
- e. Community Center
- f. Cultural Facility
- g. Day Care Facility
- h. Garden Center
- i. Office
- j. Private Club
- k. Storage Facility
- l. Woodworking Shop.
- m. Single or Multi-Family Housing

(3) Special events, not to exceed 4 consecutive weeks in duration, or 12 weeks within any 12-month period.

(4) A combination of the above listed uses.

**(D) Special Requirements.** All adaptive reuse, restoration and rehabilitation of historic barns/buildings shall also meet the following requirements:

- (1) If the barn/building is a nonconforming structure, the adaptive reuse shall in no way increase the degree of nonconformance, except in accordance with the requirements of Section 3.8.
- (2) The proposed adaptive reuse shall not significantly alter the facade, footprint, character or immediate context (e.g., barnyard) of the historic barn/building. In reviewing proposals for an adaptive reuse of an historic barn, the Development Review Board shall determine that the historic character of the barn/building will be retained to the extent practical.

**(E)** A zoning permit issued for an adaptive reuse shall clearly state that the use is allowed only as a permitted use of the existing structure, and shall not be re-established if the structure is substantially modified, destroyed or demolished, except in accordance with the requirements of these regulations. All applicable municipal permits and approvals shall be required prior to the re-establishment of such use in a substantially modified or new structure.

### **SECTION 5.5: MOTOR VEHICLE SALES, REPAIR, AND SERVICE**

**(A) Motor Vehicle Sales.** The sale of a personal automobile by its owner on a residential property is not subject to the provisions of these regulations. Automobile and other motor vehicle sales and rentals may be allowed in designated districts subject to site plan review in accordance with Section 5.3, conditional use review in accordance with Section 6.4, and the following standards:

## **Article 5: Specific Use Standards**

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- (1) No vehicle may be parked or displayed within the setback areas for the district in which the use is located.
- (2) Repair services and facilities may be included as an accessory to sales and rentals in accordance with the requirements of Subsection (B).
- (3) Performance standards shall be met in accordance with Section 3.11.
- (4) Signs shall comply with the standards set forth in Section 3.12.

**(B) Motor Vehicle Repair.** The repair of an automobile by its owner for personal use on residential property is not subject to the provisions of these regulations. Automobile and motor vehicle repair shops may be allowed within in designated districts subject to site plan review in accordance with Section 6.3, conditional use review in accordance with Section 6.4, and the following standards:

- (1) Entrance and exit driveways shall have an unrestricted width of not less than 20 feet and not greater than 25 feet; shall not be located less than 15 feet from any property boundary; shall be located not less than 25 feet from another intersection; and shall not be configured to allow any vehicle to back onto the road right-of-way.
- (2) Vehicle lifts and pits, disabled or disabled automobiles and all parts and/or supplies shall be located within an enclosed building or otherwise screened from all public roads and adjacent properties.
- (3) The service and/or repair of motor vehicles shall be conducted within an enclosed structure.
- (4) Performance standards shall be met in accordance with Section 3.11.
- (5) Signs shall comply with the standards set forth in Section 3.12.
- (6) No vehicle may be parked or stored within the setback areas for the district in which the repair shop is located.

**(C) Motor Vehicle Service Stations.** Automobile or motor vehicle service stations which include the retail sale of gasoline and other motor vehicle products, may be allowed within in designated districts subject to site plan review in accordance with Section 5.3, conditional use review in accordance with Section 6.4, and the following standards:

- (1) Entrance and exit driveways shall have an unrestricted width of not less than 20 feet and not greater than 25 feet; shall not be located less than 15 feet from and property boundary; shall be located not less than 25 feet from another intersection; and shall not be configured to allow any vehicle to back onto the road right-of-way.

## **Article 5: Specific Use Standards**

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- (2) Gasoline pumps shall be located not less than 15 feet from any road right-of-way.
- (3) No vehicle may be parked or stored within the setback areas for the district in which the service station is located; parking requirements shall be met in accordance with Section 3.10.
- (4) Performance standards shall be met in accordance with Section 3.11.
- (5) Signs shall comply with the standards set forth in Section 3.12.
- (6) Service stations which include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food services, convenience items, etc.) shall be reviewed as a mixed use, and as such are required to meet all zoning provisions pertaining to retail uses for the district in which they are located, including but not limited to additional sign, lot size and/or parking requirements.

### **SECTION 5.6: CAMPERS & TEMPORARY SHELTERS**

**(A)** A single camper, recreational vehicle, travel trailer, tent, fishing shanty, primitive hunting camp not exceeding 400 square feet, or other similar temporary shelter may be placed on a legally designated lot in the same ownership for occasional recreational use in accordance with the following standards:

- (1) use of the lot for camping is restricted to one camper or other temporary shelter per lot;
- (2) the camper or temporary shelter shall meet all lot area and setback requirements for the district in which it is located;
- (3) the camper or temporary shelter is not used for more than 180 days within any one-year period; and
- (4) any sewage generated by a camper or other temporary shelter shall be disposed of in accordance with all applicable local, state and federal regulations.

**(B)** Maximum of two (2) campers or temporary shelters, including a fishing shanty, may be stored at the owners' place of residence providing it is parked or stored in a location which meets all setback standards for the district within which it is located, and occupancy is limited to occasional use which does not exceed 48 consecutive hours within any one week.

### **SECTION 5.7: CAMPGROUNDS**

**(A)** A new or expanded travel trailer, recreational vehicle, or primitive campground may be permitted in designated zoning districts subject to site plan review under Section 6.3, conditional use review under Section 6.4, and the following requirements:

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- (1) The parcel of land for a campground shall be no less than five acres in area, with at least 20% of the total campground area set aside for conservation, recreation and open space.
- (2) A campground shall provide sufficient access and parking for each camp site. The total number of camp sites in any campground may not exceed 10 sites per acre; each camp site shall be at least 2,800 square feet in area.
- (3) All campgrounds shall meet minimum setback requirements for the districts in which they are located. Buffer areas of at least 100 feet in width along property boundaries, and 75 feet in width along public rights-of-way and waters, shall be maintained. Buffer areas shall not be included in the calculation of open space under Subsection (1). No building, camp site, parking or service area shall be located in buffer areas.
- (4) The campground shall operate for a period not to exceed 6 months (180 days) during any calendar year. Recreational vehicles may only be stored on the property if they are properly registered for highway use.
- (5) Landscaping and/or fencing along property boundaries shall be required as appropriate for screening, security, and privacy.
- (6) Roads within the campground shall meet the minimum standards in Table 4.1 and be properly maintained.
- (7) Campgrounds shall provide lavatory, shower, and toilet facilities sufficient to serve all camp sites. Water and wastewater disposal systems shall comply with Section 3.15.
- (8) Adequate provision for the safe, sanitary disposal of trash shall be provided on site.
- (9) Customary accessory uses and structures to campgrounds include equipment and supply stores, playground and athletic fields, recreation and dining halls, snack bars, laundry and shower facilities and similar facilities intended solely for the use of campground residents and guests.

Table 5.1 Campground Road Standards		
	One-way Roads	Two-way Roads
Right-of-Way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

**(B)** For substantially undeveloped, primitive camping areas (e.g., tenting areas) located on public or private lands, the Development Review Board may waive any or all of the requirements under



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Subsection (A) if it is demonstrated to their satisfaction that access, total lot area, camp site area, and setback distances are sufficient to:

- (1) support the proposed level of use, and
- (2) avoid any adverse impacts to water quality, natural areas, and adjoining properties and uses.

### **SECTION 5.8: CONTRACTOR'S YARD**

**(A)** Contractor's yards may be allowed in designated zoning districts subject to site plan review in accordance with Section 6.3, conditional use review in accordance with Section 6.4, and conformance with the following provisions:

- (1) Outdoor storage of materials, including building or construction materials, vehicles and heavy equipment, shall be limited to a designated area, approved by the Development Review Board subject to site plan review under Section 6.3. Such area must be completely screened year-round from the road and from neighboring properties with a stockade fence not less than 6 feet high, installed so that all supports face inward toward the yard. Activities associated with the operation of the contractor's yard are not permitted outside of the designated area, with the exception of driveway and pedestrian access.
- (2) The area designated for the outdoor storage of materials shall be set back a minimum of 100 feet from road rights-of-way, surface waters, wetlands. All other setback and dimensional standards for the district in which the contractor's yard is located shall apply, although the Development Review Board may, as a condition of site plan approval, require greater setbacks as appropriate based on specific site conditions to protect water quality and neighboring properties.
- (3) The maintenance and repair of vehicles and equipment shall be limited to inside of an enclosed building. The storage of equipment shall be screened in accordance with Subsection (1). Dead iron (e.g., inoperable, unused, unregistered equipment) shall not be stored on the premises.
- (4) The operation of the contractor's yard shall meet all performance standards set forth in Section 3.11.
- (5) There shall be no storage of hazardous waste or materials on the premises; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.
- (6) The Development Review Board may, as a condition of conditional use approval, place conditions on the hours of operation as appropriate.

**SECTION 5.9: CHILD CARE HOMES AND FACILITIES**

**(A)** In accordance with the 24 V.S.A §4412(5), a state registered or licensed child care home serving 6 or fewer children on a full time basis and up to 4 additional children on a part time basis, conducted within a single-family dwelling by a resident of that dwelling, shall be considered by right to constitute a permitted single-family residential use of the property. Such uses that meet these requirements shall not require a permit issued by the Administrative Officer.

**(B)** Nonresidential child and adult day care facilities, and such facilities operated from a dwelling which do not meet the requirements of Subsection (A), may be permitted in designated zoning districts subject to site plan review in accordance with Section 6.3, conditional use review in accordance with section 6.4, and the following conditions:

- (1) The facility shall be operated in compliance with the performance standards set forth in Section 3.11, including standards for noise.
- (2) All equipment, including toys, shall remain within the boundaries of the property so as not to create a nuisance for neighboring property owners. Designated play areas shall be located not less than 10 feet from side and rear lot boundaries, and 20 feet from any road right-of-way. The Development Review Board may waive this standard based upon unique site conditions and may impose play area setbacks to minimize impacts on adjacent properties and to ensure the safety of children occupying the facility.
- (4) Screening may be required to avoid adverse visual impacts to neighboring properties.
- (5) Parking, loading and service area requirements shall be met in accordance with Section 3.9.

**SECTION 5.10: EXTRACTION & QUARRYING**

**(A)** The extraction or removal of topsoil, sand, or gravel, rock or other similar material for commercial purposes, including sand, gravel, mining and quarrying operations, except where incidental to any development lawfully undertaken in accordance with these regulations, may be allowed in designated districts subject to site plan review in accordance with Section 6.3, conditional use review in accordance with Section 6.4, and the following standards.

**(B)** In granting site plan approval, the Development Review Board, in addition to the standards set forth in Section 6.3, shall find that the proposed extraction meets the following standards:

- (1) In addition to application requirements under Section 5.3, the applicant shall submit two copies of proposed erosion control and site restoration plans, prepared by a licensed engineer, showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation. Such plan shall address the following:

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- a. specific measures to control erosion shall be specified for each stage of the operation;
  - b. the slope of material in any excavation shall not exceed the normal angle of repose or 45 degrees, whichever is less, unless otherwise permitted by the DRB;
  - c. any access road or driveway located within 100 feet of an adjacent parcel occupied by a dwelling shall be provided with a dust-free surface and maintained in a dust free condition; and
  - d. adequate stormwater management shall be provided at all stages of the operation to prevent the stagnation of water, soil erosion, sedimentation of surface waters and an increase in the discharge of stormwater onto adjacent parcels.
- (2) All processing of earth resources, including screening, sifting, washing, crushing and related activities shall only be conducted on the premises with the explicit approval of the Development Review Board. Such processing shall only be permitted for materials extracted on the site, unless otherwise approved by the DRB. Measures to control noise, dust and flying rock shall be specified and approved by the DRB. Such measures may include limitations on the stockpiling of excavated materials, limitations on blasting, or the creation of a landscaped buffer, of a suitable width, surrounding the site.
- (3) The top of the bank for any excavation shall be located not less than 50 feet from any property boundary; all operations shall be suitably screened, with fencing and/or landscaping, from adjacent properties.
- (4) Any excavation with a depth of 10 feet or more and/or a slope of 30 degrees or more shall be surrounded with a suitable fence and gates, the size and materials of which shall be approved by the DRB, to prevent unauthorized access to the extraction operation. Such a fence shall be located not less than 50 feet from the edge of the excavation, and not less than 25 feet from property boundaries.
- (5) In accordance with the 24 V.S.A §4464(b) a performance bond, escrow account, or other surety acceptable to the Legislative Body shall be required to ensure site reclamation upon completion of excavation projects, to include any regrading, reseeding, reforestation or other activities that may be required.
- (C)** In granting conditional use approval, the Development Review Board shall, in addition to the standards set forth in Section 6.4, find that the proposed extraction meets the following standards:
- (1) The extraction shall not cause any hazard to public health and safety.
  - (2) The Board shall consider, and may place limitations on, the type of machinery to be used in the operation to minimize impacts on adjacent properties.

- (3) The extraction shall not operate on Sundays or legal federal holidays and, if the operation is located within 1,000 feet of a dwelling, shall not operate between the hours of 7:00 p.m. and 7:00 a.m. The Board may place additional restrictions on the hours of operation to address concerns specific to the site.

**SECTION 5.11: HOME BASED BUSINESSES [HOME OCCUPATIONS, COTTAGE INDUSTRIES]**

**(A) Home Occupation.** In accordance with the 24 V.S.A §4412(4) no provision of these regulations shall prevent a person from using a minor portion of a dwelling for the conduct of an occupation which is customary in residential areas and which does not change the character of the surrounding area or neighborhood. A permit application shall be submitted to the Administrative Officer for a determination as to whether the proposed use is a home occupation as defined by these regulations. Home occupations, as distinguished from cottage industries under Subsection (B), are permitted as an accessory use in all districts where residential uses are permitted in accordance with the following provisions:

- (1) The home occupation shall be carried on fully within the primary dwelling and shall not occupy greater than 30% of the total floor area of one floor of the dwelling.
- (2) The home occupation shall be incidental to the residential use of the property and shall comply with the performance standards set forth in Section 3.10 at all times.
- (3) The home occupation shall be conducted on-site by residents of the dwelling.
- (4) Exterior displays of goods and wares, the exterior storage of materials that are not customarily associated with a residential use, or other exterior indications of the home occupation, including window displays, shall not be permitted.
- (5) A sign shall be permitted in accordance with Section 3.11.
- (6) No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use in the neighborhood.
- (7) Off street parking shall be provided as required under Section 3.9.

**(B) Cottage Industry.** Home-based cottage industries, as distinguished from home occupations under Subsection (A), may be permitted in designated zoning districts subject to conditional use review in accordance with Section 6.4 and the following additional provisions:

- (1) The owner and operator of the cottage industry shall reside on the lot.
- (2) The cottage industry shall be carried on within the principal dwelling and/or accessory structure(s) providing the use of such space does not change the character of the property

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- or neighborhood or change the outward appearance of the dwelling unit or accessory structures on the lot.
- (3) The residents of the dwelling unit, and no more than 12 nonresident employees, may be employed on-site at any one time.
  - (4) The cottage industry shall not generate traffic, including but not limited to delivery truck traffic, in excess of volumes that are characteristic of the neighborhood.
  - (5) Adequate off-street parking shall be provided for all residents, nonresident employees, and customers in accordance with Section 3.9.
  - (6) A sign shall be permitted in accordance with Section 3.11.
  - (7) Water supply and wastewater disposal systems shall be provided in accordance with Section 3.14.
  - (8) The cottage industry shall conform to all performance standards under Section 3.10.
  - (9) Hours of operation may be limited by the Development Review Board to minimize impacts to neighboring properties and residents.
  - (10) There shall be no storage of hazardous waste or materials; fuel storage shall be limited to that needed for heating.
  - (11) The cottage industry shall be visually compatible with the character of the area as defined by the zoning district purpose statement; landscaping and screening may be required as appropriate. In addition, any outdoor storage of materials, including building or construction materials, unregistered vehicles or heavy equipment, must be completely screened year-round from the road and from neighboring properties.
  - (12) On-site wholesale and/or retail sales shall be limited to products produced on the premises.
  - (13) Cottage industries shall not be permitted in a planned unit development (PUD).
  - (14) The permit for a cottage industry shall clearly state that the industry is a home business which is accessory to the principal residential use and shall be retained in common ownership and management. A home-based business may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations pertaining to such use, including density, dimensional, and other requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.

**SECTION 5.12: MARINA**

**(A)** Marinas may be permitted in designated zoning districts subject to site plan review under Section 6.3, conditional use review under Section 6.4, and the following additional provisions. A marina, whether intended for public or private use, shall:

- (1) in addition to meeting all zoning district requirements, have a minimum continuous shoreline or river frontage of 300 feet;
- (2) provide, in addition to parking requirements under Section 3.10, at least one off-street parking space for every 3 rental boats, moorings, and/or berths; parking areas shall be set back at least 100 feet from the shoreline;
- (3) provide screened garbage collection and toilet facilities; and, for a marina accommodating boats with sleeping berths, a facility for the pump-out of waste to be disposed of in accordance with state regulations;
- (4) meet performance standards under Section 3.10;
- (5) meet setback requirements under Section 3.13, and not result in erosion or water pollution;
- (6) not adversely impact natural, cultural, and/or scenic resources on-site or within the vicinity of the marina; and
- (7) not prevent the use of adjacent shoreland property or lake access.

**(B)** Customary marina accessory uses and structures may include boat launches, docks and moorings; boat fueling, storage and repair facilities; the sale or rental of boating equipment; and water taxi, cruise, fishing charter or similar off-shore service. Other uses may be allowed as a mixed use (Section 5.13) subject to conditional use review.

**SECTION 5.13: MIXED USE**

**(A)** In designated districts, more than one use may be permitted within a single building or on a single lot subject to site plan review in accordance with Section 6.3, conditional use review in accordance with Section 6.4, and the following provisions:

- (1) Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.
- (2) The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, maximum lot coverage and minimum lot size.

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- (3) The mixed use meets all applicable general provisions contained in Article 3, including parking requirements under Section 3.9 based on the cumulative parking demand for the various proposed uses.

### **SECTION 5.14: MOBILE HOME PARK**

**(A)** A mobile home park may be approved in a designated zoning district subject to site plan review in accordance with Section 6.3, conditional use review in accordance with Section 6.4, and the following provisions.

- (1) A mobile home park shall comply with the requirements of 10 V.S.A. Chapter 153.
- (2) The minimum total lot area shall be 10 acres.
- (3) Each mobile home site shall be at least 5,400 square feet in area, and not less than 45 feet in width at the building setback line, exclusive of easements.
- (4) The maximum number of mobile homes shall be determined by subtracting from the total gross area not less than 20% of the parcel, and allowing a maximum of one unit per every 5,400 square feet of the remaining 80% of the gross area (e.g., 64 units per 10 acre parcel). In addition to the 20% of the land to be subtracted from the density calculation, all lands located within the 100-year floodplain, subject to public utility easements or rights-of-way, or that are characterized by severe development limitations, including wetlands and slopes in excess of 25%, shall be excluded from the calculation of total gross area.
- (5) All mobile homes within an approved Mobile Home Park shall be located not less than 75 feet from any road right-of-way and not less than 100 feet from any property boundary. A landscaped buffer not less than 10 feet wide shall be provided along the perimeter of the property boundary.
- (6) All mobile homes shall be located:
  - a. not less than 25 feet from the edge of the travel-way of any interior road or driveway (excluding driveways serving individual mobile homes);
  - b. not less than 25 feet from any common areas; and
  - c. not less than 20 feet from other mobile homes.
- (7) An area of not less than 10% of the total gross area, calculated in accordance with Subsection (4) above, shall be provided for open space and recreation purposes. Such area shall be conveniently located and accessible to all mobile home sites within the park.
- (8) Adequate provision shall be made for the collection, disposal and storage of garbage and refuse.

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- (9) Provision shall be made for fire protection, including the installation of adequate water supply and fire hydrants, access roads and driveways, fire alarms and public telephones.
- (10) All access shall be designed and constructed in accordance with the standards set forth in Section 3.2.
- (11) Parking shall be provided in accordance with Section 3.9.
- (12) Water supply and wastewater disposal systems shall be provided to each mobile home in accordance with state regulations and the standards set forth in Section 3.14.
- (13) Signs shall meet the standards set forth in Section 3.11.
- (14) The approval of a mobile home park may stipulate that future building permits for accessory structures, porches, decks and other structures attached to a mobile home on an approved site may be permitted with the approval of the Administrative Officer in accordance with Section 10.1, provided the cumulative total area (footprint) of all accessory structures does not exceed 100% of the floor area (footprint) of the mobile home.

### **SECTION 5.15: NEIGHBORHOOD STORE**

**(A)** A neighborhood store may be allowed in designated districts subject to site plan review in accordance with Section 6.3, conditional use review in accordance with Section 6.4, and the following standards:

- (1) A neighborhood store may occupy a lot, or a portion of a dwelling in accordance with these standards and the standards for Mixed Use under Section 5.13.
- (2) The total area occupied by the neighborhood store shall not exceed 1,200 square feet in floor area.
- (3) Gasoline sales may be allowed only subject to review as a Mixed Use in districts in which both Mixed Use and Motor Vehicle Service Station are also allowed uses, in accordance with the standards set forth in Section 5.13.
- (4) No exterior storage or display of goods or materials shall be permitted.
- (5) Parking shall be provided in accordance with Section 3.9.
- (6) Signs shall meet the requirements of Section 3.11.



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- (7) All outdoor lighting shall be installed and/or shielded in such a manner to conceal light sources and reflector surfaces from view substantially beyond the perimeter of the area to be illuminated.

### **SECTION 5.16: OUTDOOR MARKET**

**(A)** Outdoor markets, including flea markets and farmers markets, may be allowed in designated zoning districts subject to site plan in accordance with Section 6.3, conditional use review in accordance with Section 6.4, and the following standards:

- (1) In approving an application for an Outdoor Market, the Development Review Board shall specify the frequency and duration of operation.
- (2) Structures related to the display and/or storage of products offered for sale shall be of a temporary nature and shall be removed when the market is not in operation, unless specific provision for the storage of structures has been approved by the Development Review Board.
- (3) In addition to the site plan review standards set forth in Section 6.3, a traffic and parking management plan shall be reviewed and approved by the Development Review Board as a condition of approval.

**(B)** Farmers markets, flea markets and other temporary or seasonal outdoor sales may take place on the Swanton Village Green with the express permission of the Swanton Village Trustees. Such approved markets shall not require a permit under these regulations.

**(C)** Garage sales are exempted from the provisions of these regulations in accordance with the standards set forth in Section 10.1.

### **SECTION 5.17: PUBLIC FACILITY**

**(A)** In accordance with the 24 V.S.A §4413, the following uses may be regulated, subject to site plan review under 6.3, and conditional use review under Section 6.4, only with respect to size, location, height, bulk, yards, courts, setbacks, density of buildings, off-street parking and loading facilities, traffic, noise, lighting, landscaping or screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- a. State or community owned and operated institutions and facilities.
- b. Public and private schools and educational institutions certified by the State Department of Education.
- c. Churches and other places of worship, convents and parish houses

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- d. Public and private hospitals
- e. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159
- f. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.
- g. Shelters and hotels/motels converted to permanently affordable housing developments.

### **SECTION 5.18: ROADSIDE STAND**

**(A)** Roadside stands for the sale of agricultural products may be permitted in designated zoning districts subject to conditional use review under Section 6.4 and the following standards:

- (1) Stands shall be located not less than 20 feet from all road rights-of-way.
- (2) Stands shall be used exclusively for the sale of agricultural products raised locally. For the purposes of this section, locally produced agricultural products shall include those products raised in Franklin and Grand Isle Counties.
- (3) Products sold in roadside stands shall be limited to unprocessed or minimally-processed and value-added agricultural commodities (e.g., raw vegetables, locally produced cheese, maple syrup, apple cider, jellies and jams, baked goods, cured meats).
- (4) A minimum of three off-street parking spaces shall be required.

### **SECTION 5.19: SWIMMING POOL**

**(A)** A permanent above-ground or in-ground swimming pool may be allowed as an accessory structure to a residential use in all districts in which residential uses are allowed, with approval of the Administrative Officer in accordance with Section 10.1, and the following standards:

- (1) The edge of the pool shall be not less than 20 feet from side and rear lot boundaries and not less than 60 feet from road rights-of-way.
- (2) An in-ground pool, or any above-ground pool with an edge that extends less than 4 feet above grade, shall be surrounded by a suitable fence of not less than 4 feet above grade to deny access to unauthorized persons. Access to the pool area shall be by a gate that can be adequately secured.

**(B)** All other permanent public or private swimming pools shall be considered recreational facilities as allowed within designated districts, subject to site plan review under Section 6.3 and conditional use review under Section 6.4.

**SECTION 5.20: WIRELESS TELECOMMUNICATIONS FACILITY**

**(A)** New or expanded telecommunication facilities that are not subject to 30 V.S.A. Section 248, including but not limited to towers and accessory structures, are subject to Site Plan Review, Conditional Use Review and the provisions of this Section. In conformance with 24 V.S.A. § 4412(9), the DRB may permit new or expanded telecommunications facilities if the DRB finds that the facility will impose not more than a *de minimus* impact on the conditional use standards in Section 6.4 and the criteria in (G) below.

**(B)** The following requires a Certificate of Public Good from the Department of Public Service under 30 V.S.A. Section 248, which preempts these Regulations:

- (1) Placement of wireless telecommunications facilities on electric transmission or generation facilities; and
- (2) Single application to construct or install 3 or more telecommunications facilities, each at least 50.0 ft. above ground level, within 3 years as part of a network.

**(C)** The following are specifically exempted from the provisions of this Section and no zoning permit shall be required:

- (1) Antennae with an aggregate area of not more than eight (8) square feet on the largest face and which are on masts that extend not more than twelve feet above the specific roof area to which they are attached and are not located on historic landmarks and structures.
- (2) Antenna structures less than twenty (20) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.
- (3) Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100.0 feet in height.
- (4) A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 40 feet in height above the lowest grade at ground level.
- (5) All citizens band radio antennae or antennae operated by a federally licensed amateur radio operator which do not exceed a height of 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.

**(E) Supplemental Application Requirements.** In addition to the application requirements set forth in Article 5, applications for new towers shall also include the following:

- (1) A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;

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- (2) Information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available.
  - (3) A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
  - (4) Written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration;
  - (5) Any additional information needed to determine compliance with the provisions of these regulations.

**(F) Construction Standards.** Telecommunications facilities shall conform to the following construction standards:

- (1) The facility will not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
- (2) All towers, including antennae, shall be less than 200 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.
- (3) All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.
- (4) The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.
- (5) The DRB may require the applicant to provide a bond, or other form of financial guarantee acceptable to the DRB, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
- (6) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the ZA showing

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- that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.
- (7) The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
  - (8) The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
  - (9) The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).
  - (10) Unless otherwise approved by the DRB, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the DRB for an extension for removal. If the facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the DRB may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.
  - (11) Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

**(G) Additional Conditional Use Criteria.** In addition to the Conditional Use Standards in Section 6.4 and the construction standards in (F) above, the DRB shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

- (1) New towers shall be sited and designed to minimize their visibility. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.
- (2) Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on-site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.

**(H)** Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, silos, steeples or other existing

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structures may be permitted by the Administrative Officer without conditional use or site plan review provided that:

- (1) no changes are made to the height or appearance of such structure except as required for mounting;
- (2) the height of the antenna as mounted does not exceed maximum district height requirements under Article 2;
- (3) no panel antenna shall exceed 72 inches in height or 24 inches in width;
- (4) no dish antenna shall exceed 3 feet in diameter; and
- (5) any accompanying equipment shall be screened from view.

**(I)** Communication facilities for use by municipal, state or federal agencies may be allowed in any district subject to site plan approval in accordance with Section 6.3, conditional use review in accordance with Section 6.4 and all provisions of Telecommunications Facility, Section 4.20.

### **SECTION 5.21: WOOD BURNING FURNACES**

**(A)** An outdoor wood burning furnace shall be considered an accessory to a principal structure which requires a zoning permit issued by the Administrative Officer in accordance with the requirements of Section 10.1, and the following provisions:

- (1) No outdoor wood burning furnace shall be located within 200 feet of any residence other than the residence to be served by the wood burning furnace.
- (2) Outdoor wood burning furnace shall have an attached permanent stack extending higher than the roof line of the structure(s) being served by the wood burning furnace, if the structure is located more than 200 feet but less than 500 feet from any residence other than the residence to be served by the wood burning furnace.
- (3) Outdoor wood burning furnace shall meet applicable performance standards under Section 3.11; no stove shall be sited or operated in such a manner that it creates a nuisance or public health hazard.
- (4) Only natural wood shall be burned in the wood burning furnace.

**ARTICLE 6: DEVELOPMENT REVIEW**

**SECTION 6.1: APPLICABILITY**

**(A) Site Plan Review**, pursuant to Section 6.3 and 24 V.S.A §4416, shall apply to all permitted and conditional uses as designated in Article 2, excluding single- and two-family dwellings, residential accessory uses or structures (including home occupations within a single or two-family dwelling, day care facilities and group homes with 6 or fewer clients/residents), signs, and other uses specifically exempted from site plan review under these regulations.

**(B) Conditional Use Review**, pursuant to Section 6.4 and the 24 V.S.A §4414(3), shall apply to all conditional uses as designated in Article 2 or as otherwise specified in these regulations including, but not limited to, modification of height standards in accordance with Section 3.6 and modification of setback standards in accordance with Section 3.8.

**(C) Flood Hazard Review**, pursuant to Section 6.5, the 24 V.S.A §4424 and 10 V.S.A. §753, shall apply to all development, including but not limited to new or expanded single-family dwellings and accessory within the designated Flood Hazard Area Overlay District (FHO).

**SECTION 6.2 COORDINATION**

**(A)** Where an application requires both site plan review and conditional use review, the Development Review Board shall consider both applications when possible, in a single combined hearing pursuant to Section 6.3 and Section 6.4, act to approve or disapprove, and provide separate written findings and conditions. The following should be considered with regard to respective review procedures and standards:

- (1) Site plan review may require that a project be of high quality, attractive and functional site design, and that overall building and site design be consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.
- (2) Conditional use review may require compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large. Standards and conditions emphasize those considerations in which off-site impacts of a proposed project can be identified, avoided and/or mitigated.

**(B)** Specific uses subject to both flood hazard review and conditional use review shall be reviewed concurrently in accordance with Sections 6.4 and 6.5 by the Development Review Board. Permitted uses within Flood Hazard Area Overlay District shall be subject to review only in accordance with the procedures and requirements of Article 4 and Section 6.5.

**(C)** Notice for combined review hearing shall be made in accordance with 24 V.S.A. § 4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.

### **SECTION 6.3 SITE PLAN REVIEW STANDARDS & PROCEDURES**

**(A) Required Application.** No zoning permit may be issued by the Administrative Officer for any use or structure which requires site plan review, pursuant to these regulations, until such approval has been granted by the Development Review Board in accordance with this Section. An application for site plan review, including 1 original and 5 complete copies of a site development plan (site plan map copies may be 8.5" x 11" or 11" x 17" reductions, providing they are to scale), to include the information described in Table 5.1, a written request for any waiver of required application materials, and associated fee, shall be submitted to the Administrative Officer for consideration at the next available regularly scheduled meeting of the Development Review Board. The application shall not be considered complete by the Development Review Board until all of the application materials listed on Table 6.1 have been submitted.

**(B) Waivers.** The Development Review Board may waive one or more of the listed items in the event they determine the item(s) to be unnecessary for the comprehensive review of the application. Such waiver shall be issued, in writing, at the time that the application is accepted and deemed complete by the Development Review Board.

**(C) Review Procedure.** The Development Review Board must hold a public hearing before making a determination as to whether the proposed use conforms to the general and specific standards for Site Plan Review in the Regulations. Public notice, public hearing, and decision requirements in Section 10.6 (D) shall apply. The Board shall act to approve, approve with conditions, or disapprove an application within 45 days of the date of the final public hearing; and shall issue a written decision to include findings, any conditions deemed necessary to ensure compliance with the standards set forth below, and provisions for appeal. Failure to act within the 45-day period shall be deemed approval.

**(D) General Standards.** The Development Review Board may consider and impose appropriate safeguards, modifications and conditions relative to the following standards:

- (1) Safety and efficiency of traffic access.** Vehicular access and intersections with roads shall meet all applicable municipal and state design standards, including those set forth in Section 3.2. In appropriate instances, including the presence of compatible adjacent uses, areas characterized by congestion and frequent and/or unsafe turning movements, or parcels having direct access to more than one road, the Development Review Board may require shared access between adjoining properties or may limit access to a side street or secondary road. Requirements for shared access shall be made either at the time of site plan approval if similar provision has been made on contiguous parcels, or contingent upon future development of neighboring properties.



**Table 6.1 Development Review Application Requirements**

<b>Applications for site plan review, conditional use review, and/or flood hazard review shall include a site development plan and associated materials containing the information identified below:</b>	<b>Site Plan</b>	<b>Cond. Use</b>	<b>Flood Haz.</b>
1. A plan drawn to scale prepared by a licensed engineer, surveyor, land planner, or as otherwise approved by the Development Review Board showing the following: <ul style="list-style-type: none"> <li>a. Lot, block and section number of the property taken from the most recent municipal tax records;</li> <li>b. Name and address of person, firm or organization preparing map;</li> <li>c. North arrow and scale;</li> <li>d. Legal property boundaries for the property;</li> <li>e. Existing and proposed features, including land use and natural features, to include existing vegetation, steep slope areas, surface waters, shorelines, floodplains, and wetlands and critical wildlife habitat; zoning district boundaries; structures (building footprints), signs, walls and fences; roads, driveways, easements and rights-of-way, and utilities;</li> <li>f. Traffic and pedestrian circulation within the site; location and dimension of parking, loading and snow retention areas; access to neighboring properties and public roads; and, sidewalks, pathways and trails in the vicinity.</li> </ul>	√	√	√
2. Site location map showing the location of the project in relation to municipal and state highways, adjoining parcels and uses, and zoning district boundaries.	√	√	√
Proposed landscaping and screening, including planting details.	√	√	n/a
Grading and drainage plan showing existing and proposed contours, areas of cut and fill, existing and proposed drainage, and provisions for erosion control and stormwater management.	√	√	√
Proposed lighting plan, including the design and location of all exterior lighting.	√	n/a	n/a
Building elevations for new or altered structures.	√	√	√
An indication of exterior building facade design, window treatment, roof and siding materials.	√	√	n/a
10. Phasing schedule for completion of all proposed development and site improvements.	√	√	√
<b>The Development Review Board may require additional information depending upon the scope and location of the proposed project, including but not limited to the following:</b>			
1. Stormwater management and erosion control plan.			
2. Flood control plan.			
3. Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, mitigation).			
4. Community service impact assessment (fiscal costs and benefits, capacities, levels of service, mitigation).			
5. Habitat impact assessment (identification of critical wildlife habitat, travel corridors, proposed mitigation).			

**Table 6.1 Development Review Application Requirements**

6. Shoreland or forest management plan.
7. Visual impact analysis.
8. Historic and archeological resource inventory and impact assessment.
9. For applications within the Southern Growth District a regional impact assessment of fiscal costs and benefits, capacities, level of service and mitigation.
10. Other information or studies necessary for the Development Review Board to conduct a comprehensive review.
_ = required; n/a = Not Applicable

(2) **Adequacy of parking, loading & service facilities.** Parking, loading and service facilities shall be provided per the requirements of Section 3.10 of these regulations, and in accordance with the following:

- a. Parking shall be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. Parking shall be located to the rear or interior side (side not fronting on a public road) of buildings, unless otherwise permitted by the Development Review Board due to site conditions which would prevent the reasonable use of the property if this standard were strictly enforced. Large, uninterrupted expanses of parking shall be avoided.
- b. Driveway connections to parking areas on adjacent properties, or provision for future connection, shall be required where feasible. In the event that such connections allow for shared parking between properties, overall parking requirements may be reduced pursuant to Section 3.10 (D).
- c. Adequate parking facilities for people with disabilities shall be required that comply with ADA standards. Accessible parking spaces shall be located on an accessible pedestrian route of travel to an accessible entrance to the building served by the parking.
- d. Loading and service areas within the site shall be provided in accordance with Section 3.10 (C), and shall be adequate to meet the anticipated needs of the use in a manner that does not interfere with parking, internal circulation and landscaping.
- e. Clearances and turning radii shall be sufficient to accommodate all service and delivery vehicles required for the normal activities on the site, as well as fire and emergency vehicles.

- (3) **Bicycle & Pedestrian Access, Circulation.** Pedestrian circulation within the site, and access through the site to adjacent properties and along public roads, shall be provided. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon the property's location, site conditions and proximity to other facilities. Bicycle racks may be required for multi-family, public, commercial and industrial development for use by residents, employees and/or the general public. In addition, adequate access from the parking area and sidewalks to building(s) that are open to the general public shall be provided for people with disabilities.
- (4) **Landscaping & Screening.**
- a. Landscaping shall enhance the features and conditions unique to each site and should include a combination of shade and street trees, shrubs, planting beds, well-kept grasses and ground covers. Landscaping shall be required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, and as otherwise necessary to provide adequate screening.
  - b. Screening shall be provided when the Development Review Board determines that adequate screening is not provided by topographical or other barriers; when a more intensive land use is proposed to abut a less intensive use; adjacent to garbage collection and utility areas, satellite antennas, outdoor storage, loading and unloading areas, and other outdoor utilities and facilities; and when the project adversely impacts adjacent properties (e.g., lighting, etc.). In addition:
    - i. Screening shall provide a year-round visual screen. Screening may take the form of landscaping, and/or a combination of other site modifications, such as berms, hedges, fences, and stone walls.
    - ii. Arrangement of screening shall provide protection to adjacent properties and avoid damage to existing plantings.
- (5) **Lighting.** Exterior lighting shall be limited to cut-off fixtures. Such fixtures shall be directed so as not to cause glare on adjacent roadways, cause excessive levels of illumination, or result in direct illumination of neighboring properties. A proposed lighting plan, including the design and location of all lighting is required by the Development Review Board. The Development Review Board may restrict the maximum level of illumination on all or a portion of the property.
- (6) **Outdoor Storage & Display.** The outside storage or display of materials, goods, supplies, vehicles, equipment, machinery or other materials is prohibited unless specifically approved by the Development Review Board and/or specifically permitted within particular districts. Secured, covered and screened areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving such outdoor display or storage, the Development Review Board may place conditions on the area and location of such storage or display and may require appropriate screening.

- (7) **Historic & Archaeological Resources.** Consideration shall be given to the impact of the proposed development on historic structures and archaeological sites on the site or on adjacent properties. Continued use of existing historic structures shall be encouraged, the exterior appearance of historic structures shall be protected, and the visual context of historic structures shall be maintained.

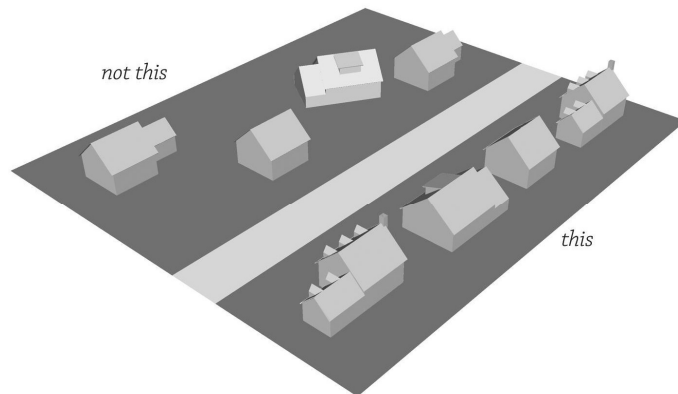
**(E) District & Use Standards.** See applicable district standards as listed in Article 2, and specific use standards under Article 4.

**(F) Bonding.** The Development Review Board may require that an application for site plan review furnish the municipality with a performance bond or other surety acceptable to the Legislative Body, up to the value of the cost of the improvement to be guaranteed by such bond or surety, in order to ensure development in accordance with the restrictions and conditions specified by the Development Review Board in its written approval, as set forth in these Regulations.

**(G) Site Design and Development Standards for the Southern Growth District.** In addition to the general requirements of this section and other applicable sections of these regulations, the following standards shall be used in the Southern Growth District.

**(1) Site Layout and Design:**

- a. To promote a cohesive and efficient buildout for the district, site layouts should be based on the concept plans for new roads as shown on the Future Land Use and Growth Center Development Map, to the greatest extent possible. Where conformance to the concept plan is not possible, site layouts meet the intent to establish an interconnected system of new roads, sidewalks, paths and utilities.

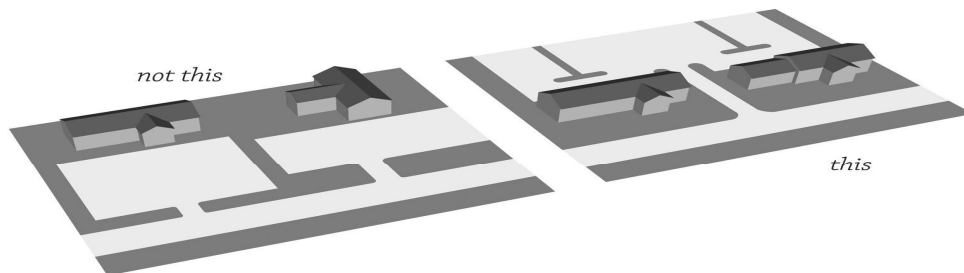


**Figure 6.1 – Uniform Building Setbacks**

- b. Applicants and owners of adjacent lots shall cooperatively plan for meaningful open space, shared access and parking, and other shared infrastructure such as stormwater systems.
- c. Structures and other site elements should be designed to allow for connection of roads, sidewalks, paths and other infrastructure to future development within the lot and to adjacent properties.
- d. Where appropriate or applicable, individual lots or developments shall accommodate a sufficient pedestrian or bicycle connection to the Missisquoi Valley Rail Trail.

- e. Information on sightlines from the interstate and other major roads should be provided and structures should be placed to reduce visual impacts from those corridors
- f. Uniform building setbacks along the public right-of-way are required to reflect a traditional spacing pattern. Buildings should be aligned with neighboring buildings, which are also close to the front setback line (see Figure 5.1).
- g. Commercial parking lots shall be located behind buildings or on the side of the building behind its front façade line (see Figure 5.2). Where parking lots are located to the side of buildings, a 10-footwide planting area should be provided between the parking lot and street right-of-way.

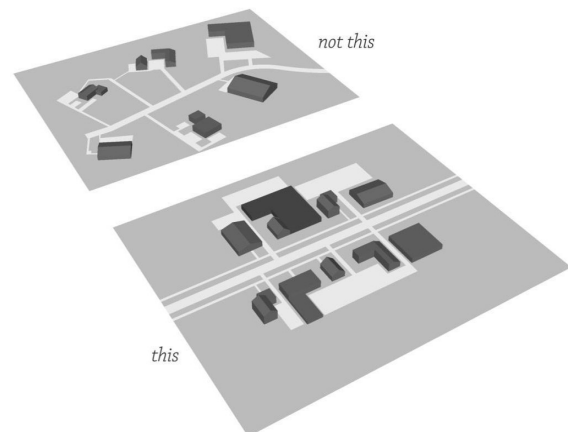
**Figure 6.2 - Parking Behind Buildings**



- h. Parking lots of more than 30 spaces should be segmented by the use of landscaped medians at least 10 feet in width and should include landscaped islands at the end of aisles.
- i. Safe, convenient pedestrian walkways should be provided through parking lots, with a distinct link between a main entrance and a concentration of vehicle parking spaces.

## **(2) Building Design and Orientation**

**Figure 6.3 - Pedestrian Friendly Orientation**



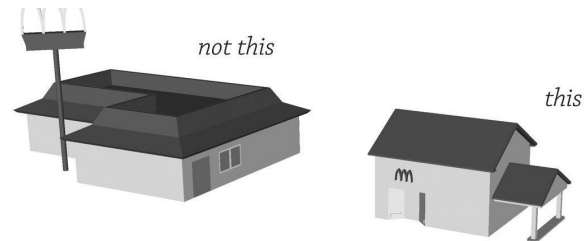
- a. Building layouts that replicate the traditional pattern of clustered and connected structures of varying sizes should be used.
- b. Buildings should be clustered and oriented to the street rather than spread apart and oriented to parking lots. The goal is to create a cohesive, pedestrian-friendly streetscape with a well-organized site plan that integrates

adjacent buildings and circulation networks. (see Figure 6.3). Primary building entries should be placed at the front of the building and should face the

street or public right-of-way so that they are clearly identifiable. If the doorway cannot face the street, a clearly marked walkway should connect the entry to the sidewalk.

- c. Generic or franchise architecture should be avoided (see Figure 6.4). Building materials, roof pitches, window placement and style and other details should be consistent with the traditional patterns of Swanton Village and surrounding areas.

**Figure 6.4 - Generic or Franchise Architecture**

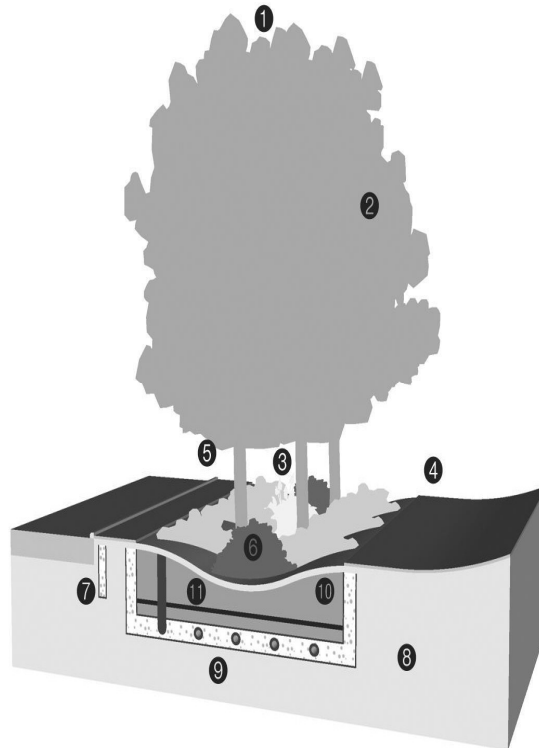


- d. The mass and scale of larger buildings should be mitigated by breaking the mass of the facades into smaller components.
- e. Two story structures with second story uses are required for non-residential and mixed-use structures.
- f. In lieu of specific lot coverage requirements, developments and clusters of buildings on separate lots shall be placed in a manner that provides for coordinated set asides of meaningful and usable open space.

### **(3) Landscaping**

- a. Native vegetation should be retained and incorporated into landscaping design to the greatest extent possible.
- b. The Development Review Board may require that development with internal streets or fronting on public streets provide street tree plantings at 40' – 60' distance on center with a minimum of 2.5" – 3" caliper trees.
- c. Landscape plantings of suitable species, numbers and sizes should be provided around buildings to enhance visual appearance, maintain a human scale and integrate structures into the surrounding landscape as required by the Development Review Board.
- d. Stormwater facilities should be incorporated into overall landscaping plans with natural, rather than structural, means preferred whenever possible. Use of bio-retention areas or rain gardens in parking lots and development sites to collect runoff and allow for short-term ponding and slow infiltration are encouraged to treat stormwater runoff in a natural manner by detaining it and filtering it as it percolates through plantings and sand filter beds (see Figure 6.5).

- e. Transformers, dumpsters and other similar site utilities and facilities should be screened from view through landscaping or structural elements that are consistent in scale, design and material with the traditional landscape of Swanton.



**Figure 6.5. Bio-retention Areas in Parking Lots**

*Overall minimum width of island is 10'-15'*

*Native trees*

*Native shrubs and groundcover*

*Grass filter strips*

*Permanent curb stops or curbing with many gaps allow for free run-off*

*Ponding Area*

*Pea Gravel Filter Strips*

*Curtain Drain*

*Underdrain*

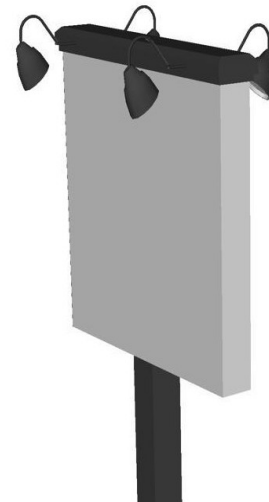
*Planting Soil*

*Sand Filter Bed*

#### **(4) Lighting**

- a. High or low-pressure sodium lamp types shall not be used for site or building lighting. Lamp types that illuminate the color of surrounding objects and vegetation accurately are required.
- b. Removal of existing floodlights which illuminate large portions of a lot is required as part of lighting plans for new development or revisions to existing site plans.
- c. Internally lit overhead canopies are prohibited. Light sources within canopies and other overhead structures should be concealed within the structure.
- d. Internally lit signs and ground mounted sign lighting are not allowed, with down directed shielded sign lighting required (see Figure 5.6).

**Figure 6.6. Down Directed Lighting**



Lighting signs from above is desirable because it focuses light where it needs to be and minimizes glare. Lighting should illuminate only the signboard to limit the potential for glare.

**SECTION 6.4 CONDITIONAL USE REVIEW**

**(A) Required Application.** No zoning permit may be issued by the Administrative Officer for any use or structure which requires conditional use review, pursuant to these regulations, until such approval has been granted by the Development Review Board in accordance with this Section. An applicant for conditional use approval shall submit 1 original and 3 complete copies of a site development plan (site plan map copies may be 8.5" x 11" or 11" x 17" reductions, providing they are to scale), to include the information described in Table 6.1, a written request for any waiver of listed application materials, and any applicable fees, to the Administrative Officer for consideration at the next available regularly scheduled meeting of the Development Review Board. The application shall not be considered complete until all of the application materials listed on Table 6.1 have been submitted.

**(B) Waivers.** The Development Review Board may waive one or more of the listed application items in the event they determine the item(s) to be unnecessary for the comprehensive review of the application. Such waiver shall be issued, in writing, at the time that the application is accepted and deemed complete by the Board.

**(C) Notification & Review Procedure.** In accordance with 24 V.S.A §4414, upon receipt of a complete application the Development Review Board shall schedule a public hearing, warned in accordance with Section 10.6 (D) within 120 days. The Board may recess the convened hearing to require the submission of additional information from the applicant, or to allow for the submission of information from other interested parties. The Board shall act to approve, approve with conditions, or disapprove an application for conditional use review within 45 days of the date of the final public hearing; and shall issue a written decision to include findings, any conditions deemed necessary to ensure compliance with the standards set forth below, and provisions for appeal. Failure to act within the 45 day period shall be deemed approval.

**(D) General Standards.** Pursuant to 24 V.S.A §4414(3), conditional use approval shall be granted by the Development Review Board only upon finding that the proposed development will not have an undue adverse effect on the following:

- (1) **The capacity of existing or planned community facilities or services.** The Board shall consider the demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (e.g., school capacity, emergency services, recreation facilities). In making such a determination, the Board will consider any capital program or budget in effect at the time of application. Conditions may be imposed regarding the timing and phasing of development to minimize the impact on community facilities and services; or the applicant may be required to contribute funds, facilities and or physical improvements toward the provision of new or expanded facilities to mitigate the impacts of the proposed development.



- (2) **Character of the area affected.** The Board shall consider the design, location, scale and intensity of the proposed development and/or use, and its compatibility to the surrounding area.

Per 24 V.S.A § 4414, three and four dwelling unit buildings shall not be denied based on the character of the area.

- (3) **Traffic on roads and highways in the vicinity.** The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency and use of affected public roads, bridges, and intersections. The Board will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists or unacceptable levels of service for local roads, highways and intersections (e.g., a reduction in existing level of service below “C” for the design hour), unless such conditions or levels of service can be mitigated by the applicant through physical improvements to the road network and/or traffic management strategies.
- (4) **Bylaws now in effect.** Proposed conditional uses shall conform to all municipal bylaws and regulations in effect at the time of submission of the application, including conformance with the policies of the Swanton Town and Village Plan and compliance with conditions of prior permits or approvals, including subdivision approval.
- (5) **The utilization of renewable energy resources.** The Board may consider whether the proposed development will interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or by eliminating nearby property owners’ access to such resources. To assure protection of renewable energy resources, conditions may be imposed on the bulk of the proposed structure, its location on the site, rooftop accessory structures, architectural features, plantings, and fences that may obstruct solar access.

**(E) Specific Standards.** In permitting a conditional use, the Development Review Board may impose, in addition to general standards, other conditions deemed necessary to ensure the safety and general welfare of surrounding properties, the neighborhood or area affected by the proposed use, and the community at large. However, in accordance with 24 V.S.A § 4464 shall not require a larger lot size, more parking spaces, limit building size (including height and footprint) or, limit the density below that allowed by the underlying bylaw for residential uses. These conditions may include, but are not limited to, the following:

- (2) Limitations on the coverage or height of buildings because of obstructions to view, the reduction of light and air to adjacent property, or to prevent adverse impacts to water quality or other identified natural features.
- (3) Limitations on the location and number of vehicular access points to the property, in accordance with Section 3.2.

## **Article 6: Development Review**

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- (4) Increased or decreased street width requirements or other modifications to street design to ensure vehicular and pedestrian safety.
- (5) Limitations on the number, location and size of signs in accordance with Section 3.12.
- (6) Modifications to on-site parking in relation to the availability of off-site parking in accordance with Section 3.10.
- (7) Requirements for adequate stormwater management and erosion control measures during all phases of development (site preparation, construction, post construction), particularly for steep slope areas in accordance with Section 3.13.
- (8) Requirements for suitable landscaping where necessary to reduce noise and glare and to maintain the property in keeping with the surrounding area.
- (9) Limitations on the timing of construction and associated site improvements, and/or restrictions on the hours of operation.
- (10) Requirements that any future enlargement or alteration of a structure or use be reviewed by the Development Review Board in view of specifying new conditions.
- (11) Conditions required to ensure compliance with other provisions of these regulations, including performance standards set forth in Section 3.11.

**(F) Bonding.** The Development Review Board may require that an applicant for conditional use approval furnish the municipality with a performance bond or other surety acceptable to the Legislative Body, up to the value of the cost of the improvement to be guaranteed by such bond or surety, in order to ensure development in accordance with the restrictions and conditions specified by the Development Review Board in its written approval, as set forth in these regulations.

## **ARTICLE 7: SUBDIVISION REVIEW**

### **SECTION 7.1            APPLICABILITY**

**(A)** In accordance with 24 V.S.A §4418, whenever any subdivision of land is proposed to be made, the subdivider or their authorized agent shall apply for and secure approval of the proposed subdivision prior to undertaking:

- (1) any contract for sale, conveyance or lease of any subdivided portion of a property;
- (2) any grading, clearing, construction, land development or other improvement (excluding forestry or agricultural activities); or
- (3) any permit for erection of a structure in such subdivision is granted; or
- (4) the filing of a subdivision plat with the Town Clerk.

Such approval shall be granted in accordance with the procedures outlined in Table 7.1 and as provided below.

**(B) Exemptions.** Parcels leased solely for agricultural or forestry purposes, where no new roads are created, are exempted from the requirements of subdivision regulations.

**(C) Minor and Major Subdivisions.** For the purposes of these regulations, subdivisions shall be classified by the Development Review Board, following an initial meeting with the subdivider at a regularly scheduled meeting of the Development Review Board, as minor or major subdivisions in accordance with the following:

- (1) **Minor Subdivisions** shall include lot line or boundary adjustments, amendments to an approved subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval, or any subdivision containing three or fewer lots.
- (2) **Major subdivisions** shall include any subdivision containing three or more lots, and Planned Unit Developments.

**(F) Coordination with Planned Unit Development Review.** Applications for Planned Unit Developments (PUDs) under Section 8.3 shall be reviewed as major subdivisions. Subdivision review may be held by the Development Review Board concurrently with PUD review under Article 9 of these regulations.

**Table 7.1 Subdivision Review At A Glance**

<b>Sketch Plan [all subdivisions]:</b>		
1.	Submission of sketch plan	Applicant; at least 16 days prior to a regularly scheduled Development Review Board meeting
2.	Development Review Board meeting	Applicant attendance required
3.	Classification of subdivision as minor or major; action on request for waivers (if any); written recommendations for changes.	Development Review Board; within 30 days of determining that the sketch plan is complete
<b>Minor Subdivision [3 or fewer lots]:</b>		
1.	Submission of final subdivision plan, proposed plat and supporting documentation	Applicant; within 6 months of the date of sketch plan approval
2.	Development Review Board public hearing	Development Review Board; warned hearing in accordance with Section 10.1(D).
3.	Subdivision/plat approval	Development Review Board; within 45 days of the hearing adjournment date
4.	Final plat recording in the town records	Applicant; within 180 days of the date of subdivision approval
5.	Certificate of Compliance (if required)	Applicant and Administrative Officer; upon completion of all improvements
<b>Major Subdivision [4 or more lots]:</b>		
1.	Submission of preliminary subdivision plan, supporting documentation	Applicant; within 6 months of the date of sketch plan approval
2.	Development Review Board public hearing	Development Review Board; warned hearing in accordance with Section 10.1(D).
3.	Preliminary subdivision/plat Approval	Development Review Board; within 45 days of the hearing adjournment date
4.	Submission of final subdivision plan and plat, including supporting documentation	Applicant; within 6 months of the date of preliminary plan approval
5.	Final Development Review Board public hearing	Development Review Board; within 30 days of receipt of the final subdivision plan
6.	Final subdivision/plat Approval	Development Review Board; within 45 days of the hearing adjournment date.
7.	Final plat recording	Applicant; within 180 days of the date of final subdivision and plat approval
8.	Certificate of Compliance	Applicant and Administrative Officer; upon completion of all improvements

## **SECTION 7.2 WAIVER AUTHORITY**

**(A)** Pursuant to 24 V.S.A §4418, the Development Review Board may waive or vary, subject to appropriate conditions and subdivision application requirements under Article 9, which in its judgment of the special circumstances of a particular plan or plat are:

- (1) not requisite in the interest of the public health, safety and general welfare; or

- (2) are inappropriate due to extraordinary and unnecessary hardship may result from the strict compliance of these regulations; or
- (3) are inappropriate because of an inadequacy or lack of connecting facilities adjacent to or within proximity of the subdivision.

**(B)** The request for a waiver for subdivision application requirements and/or subdivision standards shall be submitted in writing by the applicant with the subdivision application. It shall be the responsibility of the applicant to provide sufficient information to justify the waiver or variance and enable the Development Review Board to reach a decision.

**(C)** In granting waivers, the Development Review Board shall require such conditions as will, in its judgment, substantially meet the objectives of the requirements so waived or varied. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of the Swanton Town and Village Plan or varying these regulations or other municipal ordinances or regulations.

### **SECTION 7.3 SKETCH PLAN REVIEW [APPLYING TO ALL APPLICATIONS FOR SUBDIVISION]**

**(A) Application Requirements.** The applicant shall submit to the Administrative Officer, at least 16 days prior to a regularly scheduled Development Review Board meeting, a subdivision application and associated fee. The application shall include the required fee, and one original and five copies of the application and proposed sketch plan which include the information for sketch plan applications specified in Table 7.2.

**(B) Initial Meeting.** The applicant and/or an authorized representative shall attend an initial meeting with the Development Review Board, to be held at a regularly scheduled meeting of the Board, to discuss the subdivision application and proposed sketch plan. At this meeting the Development Review Board may request any additional information as needed to act on the sketch plan.

**(C) Action on Sketch Plan.** Within 30 days of finding that a sketch plan application is complete, the Development Review Board, based on the information provided, shall issue in writing:

- (1) a determination whether the subdivision is a minor subdivision to be reviewed under Section 6.4, or major subdivision to be reviewed under Sections 6.3 and 6.4;
- (2) the granting or denial of any requests to waive any provisions of the subdivision regulations;
- (3) a preliminary determination of whether or not the proposed subdivision plan conforms to applicable subdivision review standards under Article 7, or would be in conflict with the municipal plan and other municipal regulations currently in effect;

- (4) recommendations for modifications or changes in subsequent submissions, and/or requests for additional studies or supporting documentation that may be required.

**(D) Effect of Sketch Plan Determinations.** Development Review Board determinations and associated recommendations shall remain in effect for six months from the date of issuance, unless otherwise specifically approved or extended by the Development Review Board. Within six months of the determination by the Development Review Board, the applicant may apply to the Development Review Board for preliminary plan review under Section 6.3 or final plan and plat approval under Section 6.4.

**(E) Boundary Adjustments.** Applications for boundary adjustments which are determined by the Development Review Board to not result in the creation of a nonconforming lot may be exempted from sketch plan review requirements and proceed immediately to final plat approval.

#### **SECTION 7.4 PRELIMINARY PLAN REVIEW [APPLYING ONLY TO MAJOR SUBDIVISIONS]**

**(A) Application Requirements.** Within six months of the date of action on a sketch plan by the Development Review Board, the applicant shall submit an application and associated fees for preliminary plan and plat approval to include, unless otherwise specified or waived by the Development Review Board under Section 6.2, an original and five copies of the information required for preliminary plan review as specified in Table 7.2.

**(B) Public Hearing.** Within 30 days of deeming that the preliminary plan application is complete, the Development Review Board shall hold a public hearing on the preliminary plan, warned in accordance with Section 10.6(D).

**(C) Preliminary Plan Approval.** Within 45 days of the date of adjournment of the public hearing, the Development Review Board shall approve, approve with modifications, or disapprove the preliminary plan and associated plat based on a determination of whether or not the preliminary plan conforms to applicable subdivision review standards under Article 7, or would be in conflict with the municipal plan and other municipal regulations in effect. The Development Review Board may also require, as a condition of approval, the submission of proposed changes or modifications resulting from further study. Approval, conditions of approval, or grounds for disapproval shall be set forth in a written notice of decision. The approval of a preliminary plan shall be effective for a period of six months from the date of written notice of approval, unless otherwise approved or extended by the Development Review Board in the written notice of decision.

**(D) Phasing.** At the time that the Development Review Board grants preliminary plan approval it may require the plat to be divided into two or more phases to ensure project conformity with the municipal plan and capital budget and program currently in effect. Conditions may be imposed upon the filing of an application for final plat approval for each phase as the Development Review Board deems necessary to ensure the orderly development of the plat and to avoid overburdening municipal facilities and services.

**(E) Effect of Preliminary Plan Approval.** Approval of the preliminary plan shall not constitute approval of the final subdivision plan and plat. Subsequent to the approval of the preliminary plan, the Development Review Board may require the submission of all applicable of approvals of municipal officials and/or agencies having jurisdiction over the project (e.g., Select Board, Village Trustees, Health Officer), and such state and federal agencies as may be required by law. Upon receipt of evidence of approval of the preliminary plan by said agencies, if required, and the expiration of all relevant appeal periods, the applicant may apply to the Development Review Board for final plan approval under Section 6.5.

## **SECTION 7.5 FINAL PLAN APPROVAL [APPLYING TO ALL APPLICATIONS FOR SUBDIVISION]**

**(A) Application Requirements.** Within six months of the date of sketch plan approval for minor subdivisions or preliminary plan approval for major subdivisions, unless otherwise waived by the Development Review Board, the subdivider shall submit an application for final subdivision plan and plat approval. If the subdivider fails to do so, they will be required to resubmit for minor subdivisions a new sketch plan, or for major subdivisions a new preliminary plan, for approval subject to any new zoning and subdivision regulations. The application for final subdivision plan and plat approval shall include associated fees and, unless otherwise specified or waived by the Development Review Board under Section 6.2, one original and five copies of the information for final plan and plat review specified under Table 7.2.

**(B) Public Hearing.** In accordance with 24 V.S.A §4418, within 30 days of the date that the Development Review Board deems that a final plan application is complete, the Development Review Board shall hold a public hearing on the final plan and associated plat, warned in accordance with Section 10.6(D). Copies of the hearing notice shall also be sent, at least 15 days prior to the hearing date, to the regional Development Review Board, and to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary.

**(C) Final Plan Approval.** In accordance with 24 V.S.A §4415, within 45 days of the date of adjournment of the public hearing, the Development Review Board shall approve, approve with conditions, or disapprove the final subdivision plan, based on a determination of whether or not the plan and associated plat conform to subdivision review standards under Article 7, or would be in conflict with the municipal plan and other municipal regulations in effect. Failure to act within such a 45-day period shall be deemed approval. Approval, conditions of approval, or grounds for disapprovals, and provisions for appeal under Section 10.3(B), shall be set forth in a written notice of decision. Copies of the notice of decision shall be sent to the applicant and any other interested parties appearing at the public hearing within the 45-day period.

**(D) Performance Bonding.** For any subdivision which requires the construction of roads or other public improvements by the applicant, the Development Review Board may require the subdivider to post a performance bond or comparable surety to ensure completion of the improvements in accordance with approved specifications. The form, content, amount and manner of execution of such bond or surety shall be to the satisfaction of the municipal legislative body having jurisdiction over the roads or other improvements. The term of such bond or surety may be fixed for a maximum of three years, within which time period said improvements must

be completed. The term of such bond or surety, may with mutual consent of the Development Review Board and applicant, be extended for an additional period not to exceed three years.

**(E) Certificate of Compliance.** The Development Review Board may also require, as a condition of subdivision approval, that a certificate of compliance be obtained under Section 10.2(B), to ensure that required improvements have been installed in accordance with the conditions of subdivision approval prior to any further land development. The satisfactory completion of any improvements shall be determined by the Administrative Officer in accordance with Section 10.2.

**(F) Effect of Final Plan Approval.** The approval by the Development Review Board of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the municipality of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Select Board or Village Trustees, as appropriate, in accordance with state statute.

#### **SECTION 7.6 PLAT RECORDING REQUIREMENTS [APPLYING TO ALL APPROVED SUBDIVISIONS]**

**(A)** In accordance with 24 V.S.A §463, within 180 days of the date of receipt of final plan approval under Section 6.5, the applicant shall file three copies of the final subdivision plat, including one mylar copy and one paper copy, for recording with the municipality in conformance with the requirements of 27 V.S.A., Chapter 17. Approved plats not filed and recorded within this 180 day period shall expire.

**(B)** Prior to plat recording, the plat must be signed by at least two authorized members of the Development Review Board.

**(C)** The municipality shall also meet all recording requirements for final subdivision plan and plat approval as specified for municipal land use permits under Section 10.6(E).

#### **SECTION 7.7 REVISIONS TO AN APPROVED PLAT**

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



<b>Table 7.2 Subdivision Application Requirements</b>			
	<b>Sketch Plan</b>	<b>Preliminary Plan</b>	<b>Final Plan</b>
<b>(A) Application Information</b>			
Application Form [number of copies]	1 original & 5 copies	1 original & 5 copies	1 original & 5 copies
Application Fee [to be set by Town/Village Legislative Body]	✓	✓	✓
Name of project, if any	✓	✓	✓
Name, address of applicant [landowner and/or subdivider]	✓	✓	✓
Written description of proposed development plans, including number and size of lots; general timing of development	✓	✓	✓
Waiver request, in writing [optional]	✓	✓	
Names, addresses of all adjoining property owners*	✓		
Evidence of written notification to adjoining owners of intent to subdivide; to include copies of any waiver request*	✓		
<b>(B) Plan/Plat Mapping Requirements</b>			
	<b>Sketch</b>	<b>Draft Plat</b>	<b>Final Plat</b>
Materials	Paper	Paper	Mylar
Preparer Information, Certifications	✓	✓	✓
Scale (minimum 1 inch = 200')	✓	✓	✓
Date, North Arrow, Legend	✓	✓	✓
Project boundaries and property lines;	Drawn	Drawn	Surveyed
Existing and proposed lot lines, dimensions	Drawn	Drawn	Surveyed
Adjoining land uses, roads and drainage	✓	✓	✓
Zoning district designations and boundaries	✓	✓	✓
The location of natural and physical features located on the site, including buildings; roads, driveways and parking areas; fences and walls; watercourses; wetlands; areas of slope in excess of 20%; historic or archaeological resources	✓	✓	✓
A general indication of land cover, including forested areas and forest type, land in current or recent (prior 3 years) agricultural production	✓	✓	✓
Existing and proposed elevations, contour lines*		5' interval	5' interval
Existing and proposed roads, paths, parking areas, associated rights-of-way or easements	Drawn	Surveyed	Surveyed
Proposed building envelopes	✓	✓	✓
Proposed utilities, water and wastewater systems and associated rights-of-way or easements*	✓	✓	✓
<b>Table 7.2 Subdivision Application Requirements</b>			
<b>(B) Plan/Plat Mapping Requirements (continued)</b>			
	<b>Sketch</b>	<b>Draft Plat</b>	<b>Final Plat</b>
Road profiles; road, intersection and parking area geometry and construction schematics*		✓	✓
Proposed landscaping and screening*		✓	✓
Proposed conservation buffer and/or open space easement areas*		✓	✓
Monument locations*			✓
<b>(C) Supporting Information &amp; Documentation</b>			
	<b>Sketch Plan</b>	<b>Preliminary Plan</b>	<b>Final Plan</b>

## Article 7: Subdivision Review

Site location map showing proposed subdivision in relation to major roads, drainage ways, and adjoining properties	√	√	√
Statement of compliance with municipal plan and applicable local regulations	√	√	√
Existing and proposed traffic generation rates, volumes*		Estimated	Documented
Off-site easements (e.g., for water, wastewater, access) *	Description	Draft	Final
Proposed phasing schedule*	Description	Draft	Final
Proposed covenants and/or deed restrictions*	Description	Draft	Final
Proposed homeowner or tenant association or agreements*	Description	Draft	Final
Proposed performance bond or surety*		Description	Final
<b>(D) As may be required by the Development Review Board</b>			
Stormwater and erosion control plan		As required under sketch plan approval	As required under sketch plan or preliminary approval
Grading plan (showing proposed areas of cut and fill)			
Shoreland or open space management plan			
Site reclamation plan (for subdivisions involving extraction)			
Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)			
Fiscal impact analysis (analysis of fiscal costs and benefits to the town)			
Historic or archeological assessment			
Environmental impact assessment (analysis of potential environmental impacts, proposed mitigation measures)			
Other			
<b>* Upon written request may be waived by the Development Review Board.</b>			

## **ARTICLE 8: SUBDIVISION PLANNING & DESIGN STANDARDS**

### **SECTION 8.1 EVALUATION AND APPLICATION OF STANDARDS**

The Development Review Board shall evaluate any minor or major subdivision in accordance with the procedures described in Article 6 and the standards set forth below. The Development Review Board may, as a result of findings made concerning the proposed subdivision's conformance with these standards, require modification of subdivision design, phasing of the proposed subdivision, and/or additional measures to avoid or mitigate any adverse impacts likely to result from the proposed subdivision.

### **SECTION 8.2 GENERAL STANDARDS**

**(A) Character of the Land.** All land to be subdivided shall be, in the judgment of the Development Review Board, of such a character that it can be used for the intended purpose and density of use without undue adverse impact on public health and safety, the environment, neighboring properties, or the character of the area as defined by the zoning district purpose statement. Land subject to periodic flooding, poor drainage, inadequate capability to withstand structures, including streets, utilities, and buildings, or other hazardous conditions, shall not ordinarily be subdivided.

**(B) Conformance with the Swanton Municipal Plan & Other Regulations.** Subdivision plats shall conform to the Town and Village Plan, other provisions of these regulations, capital budget and program, and all other bylaws, ordinances and regulations of the Town and Village of Swanton currently in effect.

**(C) Lot Layout.** The layout of lots shall conform to the requirements of Section 3.7 and these regulations. The following standards shall apply to all subdivisions:

- (1) **Corner Lots.** Corner lots shall have sufficient width to permit a front yard setback on each street.
- (2) **Side Lot Boundaries.** Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines.
- (3) **Lot Shape.** Lots with irregular shapes (curves, jogs, doglegs, etc.) shall not be created unless warranted by conditions of topography, the location of natural features or existing road conditions. The configuration of lot boundaries shall meet the following standards unless specifically waived by the Development Review Board:
  - a. minimum lot frontage, as required by Article 2 of these regulations, shall be contiguous and uninterrupted; and

## **Article 8: Subdivision Planning and Design Standards**

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(4) **Reserved Strips.** No privately owned reserve strip, except on open space dedicated in accordance with Section 7.4, shall be permitted to control access to any part of the subdivision or to any other parcel of land from any street, or from any land dedicated to public use, which may be so dedicated.

(5) **Lot Size & Density.** Lot sizes and densities set forth in Article 2 are a minimum standard; Densities may be increased by the Development Review Board only for Planned Unit Developments in accordance with the provisions of Article 9.

**(D) Monuments & Lot Corner Markers.** Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

**(F) Landscaping and Screening.** The preservation, planting and maintenance of trees, ground cover or other vegetation, of a size and type deemed appropriate by the Development Review Board, may be required:

- (1) to provide screening of development to increase privacy, reduce noise and glare, or to otherwise soften and/or lessen the visual impacts of development;
- (2) to establish street trees along public or private roads to establish a canopy effect and/or maintain a pedestrian scale where the Development Review Board deems it appropriate. Such trees shall be a hardy (salt and drought tolerant) native species a minimum of 2" - 2½ "diameter at breast height and be planted within 5 to 8 feet of the street line;
- (3) to preserve existing specimen trees, tree lines, wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat; or
- (4) to establish a barrier between incompatible land uses.

**(G) Energy Conservation.** To conserve energy, all subdivisions shall use the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits. Clustered development (i.e., planned residential and planned unit development) should be considered wherever feasible, desirable and allowed. The siting of buildings should maximize solar access where feasible, and landscaping should be effectively used to provide wind barriers and reduce heat loss or gain.

**(H) Disclosure of Subsequent Development Plans.** Whenever a subdivider submits a proposal for development on a minor portion of a parcel the Development Review Board may require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.

**(I) District Settlement Patterns.** Subdivisions shall be designed to achieve the purpose and desired settlement pattern of the zoning district within which they are located, as defined in Article 2.

**(J) Outdoor Lighting.** Outdoor lighting fixtures will be designed to direct light downward and adjusted so as not to cast light directly on adjacent roadways or properties. The Development Review Board may prohibit fixtures that cause excessive glare within the property or on adjoining properties. Outdoor lighting may be required by the Development Review Board to illuminate areas such as streets, sidewalks, and parking areas.

### **SECTION 8.3 PROTECTION OF NATURAL & CULTURAL RESOURCES**

**(A) Significant Natural Features.** Subdivision boundaries, lot layouts and building envelopes shall be located and configured to avoid any adverse impact to fragile features. For the purposes of these regulations, fragile features shall include wetlands, flood hazard areas, slopes in excess of 25%, critical wildlife habitat, surface waters and associated buffer areas. Methods for avoiding such adverse impacts include but may not be limited to the following:

- (1) Building envelopes shall be located and sized to exclude these features.
- (2) Undisturbed buffer areas sufficient in width to protect the identified feature(s) shall be designated.
- (3) Subdivider may be required to develop and maintain management plans and/or establish appropriate buffers to protect critical habitat areas.
- (4) Roads, driveways and utilities shall be designed to avoid and/or prevent the fragmentation of identified features and minimize adverse visual impacts to the extent feasible.
- (5) Identified features and adjacent buffer lands shall be designated as open space in accordance with Section 7.4.

**(C) Historic & Archaeological Resources.** Subdivision boundaries, lot layout and building envelopes shall be located and configured to minimize adverse impacts to historic and archaeological sites and resources identified in the *Swanton Town and Village Plan*, by the Vermont Division for Historic Preservation, or through site investigation. Methods to minimize adverse impacts include but may not be limited to the following:

- (1) Prior to development on sites that have been identified as being archaeologically sensitive in the municipal plan or through site investigation, the Development Review Board may require a site assessment to identify the presence and relative value of archaeological resources on the site, and to document the archaeological resource and/or recommend strategies for its protection. Such an assessment shall be performed by a qualified professional in accordance with Vermont Division for Historic Preservation guidelines.
- (2) The subdivision of land shall be designed to maintain the historic context of the site, as defined by historic structures located on the property and in the immediate vicinity of the

site, and to minimize the impact of new development on the historic and architectural integrity of historic resources.

- a. Historic features, including stone walls and cellar holes, should be preserved and integrated into the subdivision design (e.g., driveways may follow stone walls) to the extent feasible.

#### **SECTION 8.4 OPEN SPACE & COMMON LAND**

**(A)** Subdivisions shall be designed to preserve open space areas for recreation, lakeshore protection and the preservation of fragile features and farmland. Common land shall be designed to achieve these objectives and to facilitate the maintenance of community facilities.

**(B) Preservation of Open Space.** Provision shall be made for the preservation of open space. The location, size and shape of lands set aside to be preserved for open space shall be approved by the Development Review Board, in accordance with the following:

- (1) Open space land shall include and provide for the protection of identified fragile features, productive farmland (to the extent practical), recreation areas and facilities, including trails, and historic and archaeological resources.
- (2) Designated open space may include the portion of a single lot outside of the building envelope which is characterized by one or more of the above referenced features and/or may encompass the contiguous boundaries of the above referenced feature located on multiple lots. The Development Review Board may require lot configurations that minimize the subdivision of contiguous open space areas.
- (3) The location, shape, size and character of the open space shall be suitable for its intended use.
- (4) Provisions should be made to enable open space designated for agriculture and forestry (silviculture) to be used for these purposes. Management plans for forests, wildlife habitat, and shorelands may be required by the Development Review Board as appropriate. Areas preserved for agricultural use should be of a size that retains their eligibility for state and municipal tax abatement programs.
- (5) Open space areas shall be configured to be contiguous with existing and potential open space lands on adjacent parcels.
- (6) In accordance with 24 V.S.A §4418, the Development Review Board may require the dedication of up to 15% of the total land area of the proposed subdivision for recreation purposes. Such area, to be set aside as common land unless otherwise approved by the Development Review Board, shall be of suitable character to serve as parkland, a playground or recreational trail network. Subdivisions resulting in the creation of 10 or greater lots shall meet this requirement.

- (7) Sewage disposal areas, utility and road rights-of-way or easements, and access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the Development Review Board, that they will in no way disrupt or detract from the values for which the open space is to be protected.

**(C) Creation of Common Land.** Land held in common for the preservation and maintenance of open space or the maintenance and protection of shared facilities (e.g., community wastewater systems, community water supplies, recreation or community facilities, lake access, road and trail rights-of-way) may be held under separate ownership from contiguous parcels and shall be subject to the legal requirements set forth below.

**(D) Legal Requirements.** The Development Review Board may require that protected open space be dedicated, either in fee or through a conservation easement approved by the Development Review Board, to the municipality, a community association comprising all of the present and future owners of lots in the subdivision and/or a non-profit land conservation organization. At a minimum, designated open space shall be indicated with appropriate notation on the final plat. Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot and establishing the person or entity responsible for maintenance and long-term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of applicant and subsequent landowners (see also Section 7.10).

## **SECTION 8.5 STORMWATER MANAGEMENT & EROSION CONTROL**

**(A) Stormwater Management.** Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development. The Development Review Board will require the subdivider to maintain post-development peak storm flows at predevelopment levels. All stormwater management facilities shall be designed in accordance with best management practices (BMPs) for stormwater management as most recently defined by the Vermont Agency of Natural Resources. The subdivider is required to contact the VT DEC Stormwater District Reviewer to determine if a Stormwater Permit is required for the proposed project. The preparation and implementation of a stormwater management plan, prepared by a professional engineer licensed by the state, may be required by the Development Review Board. The subdivider's engineer shall provide such information as the Development Review Board deems necessary to determine the adequacy of all proposed drainage facilities. Off-site easements and/or management facilities may also be required by the Development Review Board as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.

**(B) Erosion Control.** Land shall be subdivided and improved so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. The Development Review Board may require the preparation and implementation of a sedimentation and erosion control plan to ensure that site improvements, including excavation, road and driveway construction and site

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clearing and grading, shall not unduly impact neighboring properties or surface waters. Such a plan, if required, shall be prepared by a licensed Vermont engineer. To control erosion, the plan will meet the following standards:

- (1) The plan will fit the topographic, soil and vegetation characteristics of the site with a minimum of clearing and grading.
- (2) Existing natural drainage patterns will be preserved wherever possible.
- (3) The sequence of construction activities will be designed so that the smallest area possible is disturbed at any one time. Only areas where active construction is taking place should be exposed. All other areas should be protected by vegetative and structural control measures.
- (4) All areas exposed during construction shall be protected in accordance with standards of the Natural Resource Conservation Service, the Agency of Natural Resources, or other appropriate regulatory body. Permanent vegetation and structures shall be established according to a schedule as required by the Development Review Board. Seed and mulch will be applied as soon as possible to disturbed soils.
- (5) Disturbance should be avoided as much as possible between October 15 and May 1.

**(C) Homeowner Association.** If the subdivision requires a stormwater permit from the Vermont Agency of Natural Resources, a legal Homeowner Association shall be formed in the State of Vermont and maintained in good standing in perpetuity.

### **SECTION 8.6 FACILITIES & SERVICES**

**(A) Municipal Facilities & Services.** The proposed subdivision will not create an undue burden on municipal facilities or create an unreasonable demand for public services (e.g., shall not result in an increase in student enrollment in excess of existing or planned school capacity). A fiscal impact analysis and/or the phasing of development in accordance with a duly adopted capital budget and program may be required as appropriate, the cost of which is to be borne by the applicant.

**(B) Fire Protection Facilities.** Adequate water storage or distribution facilities for fire protection within the subdivision shall be provided to the satisfaction of the Development Review Board. Where practicable, or where required by the Development Review Board, fire hydrants or ponds shall be installed by the subdivider. To assist the Development Review Board in determining the adequacy of fire protection facilities, the applicant shall consult with the fire chief from the fire department responsible for providing coverage for the subject property.



**SECTION 8.7 WATER SUPPLY & WASTEWATER DISPOSAL**

**(A) Individual and Shared Systems.** Individual and shared water and wastewater systems shall meet all local and state regulations for design, installation and maintenance in accordance with Section 3.15. The Development Review Board may require that community or shared systems to be designed and constructed to allow for eventual connection to a municipal system.

**(B) Connection to Existing System.** All connections to existing water and wastewater systems shall be done in accordance with local ordinances and Section 3.15.

**SECTION 8.8 ROADS & PEDESTRIAN ACCESS**

**(A) Applicability of Road Standards.** The standards contained herein shall apply to all proposed public roads and to private roads serving three or more lots. In addition, these standards may be applied to private roads serving less than four lots when the Development Review Board determines such standards are necessary to provide suitable access to, or accommodate, anticipated future subdivision. Acceptance of private roads by the municipality is subject to the approval of the appropriate legislative body pursuant to state law for the laying out of public rights-of-way. Construction of a road(s) to these standards in no way ensures such acceptance.

**(B) Traffic.** Traffic to be generated by a proposed subdivision will not create unreasonable traffic congestion or cause unsafe conditions on public roads in the vicinity of the subdivision. The Development Review Board may request the preparation of a traffic impact study to identify impacts and mitigation measures necessary to ensure road safety and efficiency, the cost of which to be borne by the applicant. The implementation of mitigation, including road improvements, necessitated by the subdivision shall be the responsibility of the applicant.

**(C) Road Design.** All roads serving proposed subdivisions of three or more lots shall be designed in accordance with Swanton road ordinances, Road Standards, and Road Takeover policy, if applicable, currently in effect, and shall conform to the dimensional and geometric design standards for local roads and streets contained within the *Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets*, dated October 1997, or as most recently amended. Minimum design standards include the following:

- (1) Rights-of-way for all roads shall be a minimum of 50 feet in width.
- (2) No dead end road shall be permitted without a suitable turn around at its terminus. This may consist of a cul-de-sac with a radius of not less than 50 feet, or a "T" or other configuration suitable for topography and adequate for emergency vehicles to turn around efficiently.
- (3) Roads shall logically relate to topography to minimize site disturbance, including the amount of cut and fill required, and to produce usable lots, reasonable grades and safe intersections in relation to the proposed use of the land to be served by such roads. Road

grades should be consistent with local terrain. Maximum road grade shall not, in any fifty feet (50 foot) section, exceed an average grade of ten percent (10%).

- (4) Roads, to the extent feasible, shall be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines; to avoid the fragmentation of agricultural land and open space; and to avoid adverse impacts to natural, cultural and scenic features. Techniques for the preservation of scenic views and cultural features should be employed for the construction and maintenance of roads within scenic or village areas, including but not limited to the selection of visually compatible materials, the preservation of existing features, and the management of vegetation within the road corridor.

**(D) Road Construction Standards.** Road construction, including specifications relating to the crown, grade, sub-base and surfacing, shall conform to the Vermont Agency of Transportation's *Standard A-76*, as amended. A licensed engineer in the State of Vermont shall issue a stamped "as built" set of plans for the road at completion for a certificate of occupancy to be issued for properties on the road.

**(E) Intersections.** A new or relocated road shall be located so that:

- (1) A safe sight stopping distance is provided, as determined by probable traffic speed, terrain, alignments and climatic extremes. Generally, sight distance should be eleven (11) times the speed limit (e.g., a curb cut on a road with 40 mph speed limit would require a minimum sight distance of 440 feet which provides a gap of 7.5 seconds of travel time);
- (2) it is directly opposite an existing road or driveway to form a four-way intersection wherever feasible. Intersections creating centerline offsets of less than 125 feet shall not be permitted;
- (3) it intersects the existing road at an angle between 70 and 90 degrees;
- (4) the gradient within 100 feet of an intersection shall not exceed 3%; and
- (5) no structure or planting is situated to impair corner visibility.

**(F) Road Drainage.** Stormwater management facilities shall be provided to manage stormwater runoff from all proposed roads and/or parking areas in accordance with Section 7.5 of these regulations. Generally, roadbeds, shoulders, ditches and culverts shall be designed and maintained in conformance with the *Vermont Better Backroads Manual*, as most recently amended.

**(G) Coordination with Adjoining Properties.** The arrangement of roads in a subdivision shall provide for the continuation of roads from adjoining subdivisions and for the future projection of roads through adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when

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later required of needed utilities and public services. Where, in the opinion of the Development Review Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

**(H) Access.** All road access shall be designed in accordance with Section 3.2, and shall be subject to the approval of the Vermont Agency of Transportation in the case of state highways and the Select Board and Trustees in the case of other public roads. Access to all lots created by subdivision of any such parcel and to all buildings or other land development located thereon shall be only from such permitted access road or driveway.

**(I) Upgrades to Existing Roads.** Where an existing access road is inadequate or unsafe the Development Review Board, in consultation with the Select Board or Trustees, may require the subdivider to upgrade the access road to the extent necessary to serve emergency vehicles and additional traffic resulting from the subdivision, and to conform to these standards. In situations where a development may require realignment, widening or otherwise increasing the capacity of an existing road, or where the municipal plan or capital program indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements. Any existing road that provides either frontage to new lots or access to new roads also shall meet these requirements. Where a subdivision requires expenditures by the municipality to improve existing road(s) to conform to these standards, the Development Review Board shall require the subdivider to contribute to any or all of the expenses involved with road improvements necessitated by the project.

**(J) Road Names & Signs.** Roads shall be named in accordance with any municipal road naming ordinance or policy currently in effect, and shall have specific historic, cultural or geographical relevance. Said names shall be identified on signs designed and located in accordance with municipal policy and shall be clearly depicted on the final plat. The Town will prove the first new sign. The Town does not put the words “private” or “PVT” on any sign.

**(K) Modification of Road Standards.** In the case of unusual topographic conditions or other circumstances which would make the strict adherence to these standards a substantial hardship, the Development Review Board may, in consultation with the appropriate legislative body, modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed road is accessible by emergency response vehicles, does not pose any threat to the safety of motorists or pedestrians, will not result in unreasonable maintenance requirements for landowners, and is designed in a manner that is consistent with other applicable standards of these regulations. No modification shall be approved without the receipt of a letter of approval from the Town's Fire Chief, Police Chief or Rescue Squad stating that the road will provide safe access to each dwelling unit that it serves.

**(L) Pedestrian & Bicycle Access.** The Development Review Board may require pedestrian rights-of-way to facilitate pedestrian and bicycle circulation within the subdivision and to ensure access to adjoining properties, uses or public facilities.

## ***Article 8: Subdivision Planning and Design Standards***

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- (1) The Development Review Board may require, in order to facilitate pedestrian and bicycle access from a subdivision to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least 20 feet in width. Easements shall be indicated on the plat.
- (2) Within the R3 and R5 Districts, concrete or granite curbing a minimum of 5 inches high and concrete, block or paved sidewalks a minimum of 5 feet wide shall be installed on at least one side of all streets. Curbs and sidewalks may be required in other districts where deemed necessary by the Development Review Board. Where curbing is required, the Development Review Board may also require adequate provision of stormwater drainage.

**(M) Driveways.** All driveways shall be designed in conformance with Section 3.2

### **SECTION 8.9 UTILITIES**

**(A) Location.** All utilities, existing and proposed, throughout the subdivision shall be shown on the final plat, and be located as follows:

- (1) All utilities, including but not limited to electric, gas, telephone, and cable television, shall be located underground throughout the subdivision, unless deemed unreasonable and prohibitively expensive by the Development Review Board.
- (2) The subdivider shall coordinate subdivision design with utility companies to insure adequate and suitable areas for under (or above) ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.
- (3) Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, conservation and shore lands, any adverse impacts to natural, cultural or scenic resources, and to public health.

**(B) Utility Easements.** Utility easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipate development outside the subdivision. Such easements shall be shown on the final plat.

### **SECTION 8.10 LEGAL REQUIREMENTS**

**(A)** Every subdivision plat shall show all proposed rights-of-way and easements as required under these regulations, regardless of whether the proposed right-of way or easement is intended to be accepted by the municipality. In the event that the right-of-way or easement is not intended for acceptance by the municipality, the mechanism by which it is to be maintained, owned and/or conveyed shall be clearly documented.

**(B)** Documentation and assurance shall be provided that all required improvements and associated rights-of-way and easements will be adequately maintained either by the subdivider,

## ***Article 8: Subdivision Planning and Design Standards***

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a homeowners' association, or through other legal mechanism. Such documentation shall be in a form approved by the Development Review Board and filed in the Swanton Land Records.

**(C)** All required improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the Development Review Board. The Development Review Board may require that all such improvements be completed prior to the issuance of a certificate of compliance under Section 10.2(B), or a zoning permit for development on approved lots. A performance bond or comparable surety may be required to ensure that all improvements are completed to specification. Such bond shall be posted in accordance with Section 6.5 of these regulations.

## **ARTICLE 9: PLANNED UNIT DEVELOPMENTS**

### **SECTION 9.1 PURPOSE**

**(A) Planned Unit Developments (PUDs).** The purpose of the PUD provision is to:

- (1) permit new neighborhoods, clustering, innovation in design and layout, and more efficient use of land,
- (2) facilitate the adequate and economic provision of streets and utilities,
- (3) preserve the natural and scenic qualities of open land,
- (4) provide for a mix of compatible uses at different densities, and
- (5) provide for a mixture and variety of housing types, including elderly and affordable housing, at different densities.

### **SECTION 9.2 APPLICABILITY**

**(A)** In accordance with 24 V.S.A. §4417, and where allowed in designated zoning districts, when approving a PUD the Development Review Board may vary the density or intensity of land use otherwise applicable under the provisions of these Regulations in consideration of and in respect to the following:

- (1) The location and physical characteristics of the proposed PUD;
- (2) The location, design, type and use of the lots and structures proposed; or
- (3) The amount, location and proposed use of open space.

### **SECTION 9.3 APPLICATION REQUIREMENTS**

**(A) Application.** An application for PUD approval shall be submitted simultaneously with an application for major subdivision review in accordance with the requirements set forth in Article 7. In addition to the information required for subdivision review described in Table 6.2, applications for PUDs must include the following:

- (1) a statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations and the standards and criteria which the applicant proposes for the development, including standards for the design, bulk and spacing of buildings and sizes of lots and open spaces;
- (2) a brief summary of the project and how it meets the standards in this section; and

- (3) additional information required by the Development Review Board to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in these regulations.

**(B) Coordination with Other Review Processes.** Applications for PUDs shall be reviewed by the Development Review Board concurrently with application for major subdivision review in accordance with the requirements and procedures set forth in Article 6. Approval granted for a PUD that involves the development of one or more conditional uses shall not exempt the proposed development from conditional use review in accordance with Section 6.4. At the time of PUD approval, the Development Review Board shall include in its decision a clear indication of all approved modifications of development standards, and may include conditions related to the location, scale, density, intensity and/or overall design of future development within the PUD. Such decision, together with the approved proposal, shall be forwarded to the Administrative Officer and Development Review Board.

#### **SECTION 9.4 GENERAL STANDARDS**

**(A)** PUDs, in addition to any proposed modifications of these regulations to be approved by the Development Review Board, shall be subject to the following general conditions and standards:

- (1) The project shall be consistent with the goals and policies of the municipal plan.
- (2) Uses permitted within a PUD may include those permitted and/or conditional uses allowed within the district where the project is located. The overall density of the project shall not exceed the number of residential, commercial, industrial or other units or densities permitted in the Development Review Board's judgment if the land were subdivided into lots in accordance with the standards of the district in which the project is located, unless modified in accordance with Section 8.5 below.
- (3) The project shall reflect an effective and unified treatment of the development possibilities of the project site, making appropriate provision for the preservation of streams and streambanks, lake shore, steep slopes, wetlands, floodplains, soils unsuitable for development due to shallow depth to bedrock or high water table, agricultural lands, historic or archaeological sites, wildlife habitat and scenic views and vistas.
- (4) Two or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PUD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with district regulations.
- (5) The minimum front, side and rear yard setbacks at the periphery of the PUD shall be as dictated for the particular district unless otherwise specified by the Development Review Board. The Development Review Board may consider within the project area other setback standards, such as zero lot lines, as part of its review under this Section.

- (6) The project plan shall be phased over a reasonable period of time in order to ensure that adequate municipal facilities and services may be provided, in accordance with Section 6.4.
- (7) A greater concentration or intensity of development may be located within some portion(s) of the site provided there is an offset by a lesser concentration in another portion(s) or an appropriate reservation of open space on the remaining land in accordance with Section 7.4.
- (8) In addition to standards under site plan and subdivision review, the Development Review Board may impose further restrictions on the height and spacing of buildings; greater setback and screening requirements for structures and parking areas, and/or between development areas and common or open space areas.
- (9) PUDs shall meet all of the standards for subdivision approval set forth in Article 7 of these regulations (e.g., streets, utilities, water and sewer), and all general and specific standards for uses included in the development (e.g., parking, signs, etc.), unless specifically waived by the Development Review Board.

#### **SECTION 9.5 PUD STANDARDS**

**(A)** In addition to the general standards set forth in Section 8.4, PUDs shall also meet the following specific standards:

- (1) The minimum project size shall be 5 acres.
- (2) An appropriate and compatible mix of permitted and conditional uses otherwise allowed in the district may be included in the PUD, which shall be designed to reflect a compact development pattern characterized by:
  - a. pedestrian scale and orientation,
  - b. functional and visual integration with neighboring properties,
  - c. a mix of uses,
  - d. well defined streetscapes and an interconnected network of streets,
  - e. the integration of private and public space, and
  - f. sidewalks and pathways to facilitate pedestrian circulation.
- (3) Residential uses within a PUD may include varied types of dwellings, including one-family, two-family and/or multi-family units if allowed in the underlying zoning district. The



number of dwelling units allowed in a PUD may, at the discretion of the Development Review Board, be increased in accordance with the following standards:

- a. the permitted number of dwelling units may include a density increase of up to 25% of the allowed district density for PUDs in which not less than 50% of the total acreage involved is set aside as open space in accordance with Section 7.4 and protected in accordance with Section 7.4(D); or
  - b. the permitted number of dwelling units may include a density increase of up to 50% of the allowed district density for affordable housing projects in which not less than 50% of the total number of dwelling units created are affordable housing units, as defined in Section 10.2.
- (4) The minimum distance between dwellings shall be 30 feet. The Development Review Board may waive or modify this standard; however, to better integrate the PUD with adjacent development of similar current or planned patterns and densities.
- (5) PUDs shall be complete developments and may be required to include facilities such as paved streets, curbs, sidewalks streetlights, drainage, sanitary sewers, underground utilities, landscaping and off-street parking, subject to the standards set forth in this Section, the standards for subdivision review included under Article 7, and the standards for site plan review set forth in Section 5.3.
- (6) To ensure adequate privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter of the site shall be setback a minimum of 100 feet from adjoining property boundaries, and screening may be required. The Development Review Board may waive or modify this standard, however, to better integrate the PUD with adjacent development of similar current or planned patterns and densities.
- (7) The maximum building coverage for all buildings per acre shall be 25%, except for mobile home parks under Section 4.14.
- (8) The minimum lot size within an approved PUD shall be 10,000 square feet. The Development Review Board may waive or modify this standard, however, to better integrate the PUD with adjacent development of similar current or planned patterns and densities.

**CALCULATING DENSITY  
INCREASE**

Allowed district density is calculated by dividing the parcel size by the minimum lot size. For example, a 3-acre parcel in the Rural District has an allowable density of up to 3 lots or principal uses because the minimum lot size is 1 acre.

A density increase of 50% is calculated by increasing the allowable district density by 50%. For example, an allowable district density of 3 lots or principal uses would be increased to 5 lots or principal uses (rounded to the nearest whole number).

- (9) Provision shall be made for the preservation of open space in accordance with the standards and requirements set forth in Section 7.4.
- (10) The PUD shall be compatible and harmonious with the character of the surrounding area, as defined in the zoning district purpose statement within which it is located. As such, the Development Review Board may impose, in addition to the standards expressly specified by this section, other conditions necessary to protect the character of the area.

## **ARTICLE 10: ADMINISTRATION & ENFORCEMENT**

### **SECTION 10.1 ZONING PERMITS**

**(A) Exemptions.** No zoning permit shall be required for the following:

- (1) Normal maintenance and repair of an existing structure that does not result in any change to the footprint or height dimensions of the structure, or a change in use, unless located in the FHO District.
- (2) Residential entry stairs (excluding deck or porch areas), handicap ramps, walkways, and fence panels or walls which do not exceed six feet in height and do not extend into or obstruct public rights-of-way or interfere with corner visibility or site distances for vehicular traffic, unless located in the FHO District.
- (3) Only one detached accessory structure which does not exceed 100 square feet in floor area or 10 feet in height, providing such structure meets front setback requirements, is set back a minimum of 5 feet from all lot lines, and is not used as living space, unless located in the FHO District is allowed per lot. A letter of intent to build, with a plat indicating dimensions and setbacks must be submitted to the Administrative Officer.
- (4) Residential garage sales, yard sales, auctions or similar activities not exceeding three consecutive days, nor more than 12 days in any calendar year.
- (5) Temporary docks associated with a residential use do not require a zoning permit if located within the Shoreland Recreation (SR) or Shoreland/River (S2) Zoning Districts.
- (6) Other exemptions defined in 24 V.S.A. § 4413

**(B) Application Requirements.** An application for a zoning permit shall be submitted to the Administrative Officer on forms provided by the town for that purpose, along with required application fees. In addition, the following will be required as applicable:

- (1) **Permitted Uses.** An application for a permitted use shall include a statement of the existing and intended use of land and structures, and be accompanied by one copy of a sketch plan, drawn to scale, which shows the following information in sufficient detail to determine whether the proposal is in conformance with these regulations:
  - a. the shape and dimensions of the parcel, including existing and proposed property boundaries;
  - b. the location of major site features, including surface waters, wetlands and floodplains;
  - c. the location of parcel corners, as known and established on the ground;

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- d. the location, footprint, and height of all existing and proposed buildings and structures, including proposed additions or alterations;
  - e. setback distances from property boundaries, road rights-of-way, surface waters and wetlands; and
  - f. any other information as required by the Administrative Officer to determine conformance with these regulations.
- (2) **Site Plan, Conditional Use, and Flood Hazard Area Review.** Applications for development that require approval under conditional use, site plan review and or flood hazard review, prior to the issuance of a zoning permit shall include, in addition to the application information under Subsection (A)(1), a development review application prepared in accordance the requirements for each under Article 5 (See Table 5.1).
- (3) **Planned Unit Developments.** Applications for planned unit developments shall include, in addition to the application requirements under Article 9, application information required for subdivision approval under Article 7 (see Table 7.2).
- (4) **Referral to State Agencies.** No permit for new construction or substantial improvement shall be granted for a proposal within a flood hazard area until after both the following:
- a. a copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel, to the Agency of Natural Resources; and
  - b. either thirty (30) days have elapsed following the mailing or the agency delivers comments on the application.
- (C) Issuance of Permits.** A zoning permit shall be issued by the Administrative Officer only in accordance with 24 V.S.A and these regulations. If, in the opinion of the Administrative Officer, the proposal as set forth in the application is not in conformance with the provisions of these regulations, the Administrative Officer shall deny the zoning permit.
- (1) No zoning permit shall be issued by the Administrative Officer until a complete application, including any required approvals from the Development Review Board, and/or Legislative Body, and associated fees, have been properly submitted.
- (2) For development for which a prior permit or approval has been issued, including subdivision plat approval, no zoning permit shall be issued until documentation is provided that all applicable conditions of the prior permit or approval have been met.
- (3) In accordance with 24 V.S.A. §4449(a), when an application for a zoning permit seeking approval of a structure is submitted, the administrative officer shall provide the applicant with a copy of the applicable building energy standards under 30 V.S.A. §§ 51 (residential building energy standards) and 53 (commercial building energy standards). However, the

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administrative officer need not provide a copy of the standards if the structure is a sign or a fence or the application certifies that the structure will not be heated or cooled. In addition, the administrative officer may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service in lieu of the full text of the residential building energy standards.

- (4) In accordance with 24 V.S.A. §4449, if public notice for a first public hearing is issued by the legislative body with respect to the amendment of these regulations, the Administrative Officer, for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed regulation or amendment and applicable existing bylaws and ordinances. If the new regulation or amendment has not been adopted by the conclusion of the 150-day period or if the proposed regulation or amendment is rejected, the permit shall be reviewed under existing regulations and ordinances. An application that has been denied under a proposed regulation or amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing regulations and ordinances, upon request of the applicant. Any determination by the Administrative Officer under this section shall be subject to appeal as provided in 24 V.S.A. §4465.
- (5) Within 30 days of receipt of a completed application, including all application materials, fees, state agency reports and approvals, the Administrative Officer shall either issue or deny a permit in writing pursuant to 24 V.S.A. §4448, §4449, or refer the application to the appropriate municipal panel for their review and action. Each permit or denial issued shall include a statement of the time in which appeals may be made under Section 10.3. If the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- (6) Within three days of issuance, the Administrative Officer shall post a copy of the permit in the Town Clerk's Office until the expiration of the appeal period and provide a copy to the Listers. The applicant must also post a permit notice, prescribed by the Town of Swanton within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.

**(D) Effective Date.** No zoning permit shall take effect until the time for appeal under Section 10.3 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of said appeal.

### **(E) Permit Expiration.**

- (1) All development authorized by the zoning permit shall be substantially commenced within one year of the date of issuance, unless otherwise specified as a condition of approval, or the zoning permit and all associated approvals shall become null and void,

and reapplication for a new zoning permit shall be required. The Administrative Officer, upon written request prior to the permit expiration date, may extend the zoning permit and associated approvals for a period not to exceed one year without further reviews or hearings.

- (2) Any zoning permit issued based on material inaccuracies or misrepresentations in an application or in any supporting documentation to an application shall be null and void; and any associated development activity commenced under such permit shall constitute a violation of these regulations subject to enforcement action under Section 9.5.

## **SECTION 10.2 CERTIFICATES OF OCCUPANCY & COMPLIANCE**

**(A) Certificate of Occupancy.** In accordance with 24 V.S.A. §4449, a certificate of occupancy issued by the Administrative Officer shall be required prior to the use or occupancy of any building or structure, or part thereof, excluding accessory structures associated with a residential use, constructed after July 1, 1998 for which a zoning permit has been issued. Except, in the Flood Hazard Overlay District, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure prior to the issuance of a Certificate of Occupancy.

- (1) An application for a certificate of occupancy shall be provided with the zoning permit issued by the Administrative Officer. The applicant shall submit the application, and any associated inspection fee, upon the completion of permitted improvements, but prior to the occupancy or use of the structure.
- (2) Within 7 normal working days of receipt of the application for a certificate of occupancy, the Administrative Officer will inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Administrative Officer fails to either grant or deny the certificate of occupancy within 7 working days of the submission of an application, the certificate shall be deemed issued on the 8th eighth day.
- (3) If a wastewater and potable water supply permit from VT DEC is required (Section 3.15), a certificate of occupancy shall not be issued by the Administrative Officer until such permit has been issued and filed in the Swanton Land Records and a statement that the wastewater disposal system has been constructed in full compliance with the permit has been submitted by the qualified designer as defined in the Wastewater System and Potable Water Supply Rules.
- (4) If the applicant has determined that a certificate as explained in 30 V.S.A. § 51 (residential building energy standards) or 53 (commercial building energy standards) is required for any land development, such certificate must be recorded in the Town Clerk's office as a condition precedent to the issuance of a certificate of occupancy.

**(B) Certificate of Compliance.** As of the effective date of these regulations, the Development Review Board shall require, as a condition of subdivision approval, that a certificate of compliance be obtained to ensure that required improvements have been installed in accordance with the conditions of approval prior to any further land development.

- (1) The application for a certificate of compliance and any inspection fee shall be submitted to the Administrative Officer with as-built plans, certified by a professional engineer licensed by the State of Vermont, which are drawn to scale and show the location of all monuments, utilities, structures, roadways, easements, and other improvements required by the Development Review Board as constructed.
- (2) Within 7 normal working days of receipt of the application for a certificate of compliance, the Administrative Officer will inspect the subdivision to ensure that all work has been completed in conformance with the conditions of subdivision approval. If the Administrative Officer fails to either grant or deny the certificate of compliance within 7 working days of the submission of an application, the certificate shall be deemed issued on the 8th day.

### **SECTION 10.3 APPEALS**

**(A) Decisions of the Administrative Officer.** In accordance with 24 V.S.A. §4465, §4472, the applicant or any other interested person may appeal a decision or act of the Administrative Officer by filing a notice of appeal with the Secretary of the Development Review Board, or the Municipal Clerk if no Secretary has been elected, within 15 days of the date of such decision or act. In accordance with 24 V.S.A § 4465 to appeal a decision regarding an application to expand housing, shall require 20 interested parties to appeal.

- (1) Pursuant to 24 V.S.A. §4468, the Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing. The Board shall give public notice of the hearing under Section 9.6 (D) and mail a copy of the hearing notice to the appellant at least 15 days prior to the hearing date.
- (2) A decision on appeal, to include written findings of fact, shall be rendered within 45 days after hearing completion, pursuant to 24 V.S.A. subchapter 11. The Development Review Board may reject an appeal without hearing and render a decision within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts, by or on behalf of the appellant. Copies of the decision shall be mailed to the appellant and hearing participants and filed with the Administrative Officer and Municipal Clerk.

**(B) Decisions of the Development Review Board.** Any interested person may appeal a decision of the Development Review Board within 30 days of such decision to the Vermont Environmental Court, in accordance with 24 V.S.A. §4471, §4472, §4471. Notice of the appeal shall be filed by certified mail with fees to the Environmental Court and by mailing a copy to the Administrative

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Officer who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and if any one or more of these persons are not parties to the appeal, upon motion they shall be granted leave by the court to intervene.

**(C) Notice of Appeal.** Pursuant to [24 V.S.A. §4466](#), a notice of appeal shall be in writing and include:

- a. the name and address of the appellant,
- b. a brief description of the property with respect to which the appeal is taken,
- c. a reference to applicable bylaw provisions,
- d. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations,
- e. the alleged grounds why such relief is believed proper under the circumstances, and
- f. any request for a stay of enforcement, which may be granted or denied by the Development Review Board in accordance with 24 V.S.A. §4467.

### **SECTION 10.4 VARIANCES**

**(A)** The Development Review Board shall hear and decide upon requests for variances pursuant to 24 V.S.A. §4469 and appeal procedures under Section 10.3. The Board may grant a variance, and render a decision in favor of the appellant, only if all of the following facts are found, and the findings are specified in its written decision:

- (1) that there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the regulations in the neighborhood or district in which the property is located;
- (2) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) that the **unnecessary hardship** has not been created by the appellant;
- (4) that the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the



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appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

- (5) that the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

**(B)** On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that all of the facts listed in 24 V.S.A. §4469 are found in the affirmative and specified in its decision.

**(C)** The Development Review Board may grant a variance from flood hazard overlay district standards under Section 6.5, only in accordance with Subsection (A), and

- (1) in accordance with 24 V.S.A. §§4469, 4424 and the criteria for granting such variances found in 44 CFR Section 60.6 of the National Flood Insurance regulations;
- (2) upon determination that during the base flood discharge the variance will not result in increased flood levels; and
- (3) upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**(D)** In granting a variance, the Development Review Board may attach such conditions as it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. In no case shall the Board grant a variance for a use which is not allowed within the zoning district, or which results in an increase in allowable density.

### **SECTION 10.5 VIOLATIONS & ENFORCEMENT**

**(A) Violations.** The commencement or continuation of any land development, subdivision or use which is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with 24 V.S.A. §§ 4451, 4452 and/or as a civil matter enforced in accordance with the provisions 24 V.S.A. 1974(a) et. Seq at the discretion of the Zoning Administrator. Each day that a violation continues shall constitute a separate offense.

**(B) Notice of Violation.** Pursuant to 24 V.S.A. §4451, no action may be brought under this Section unless the alleged offender has had at least 7 days' notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7-day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7-day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7-day notice period and within the next succeeding 12 months.

**(C) Enforcement Pursuant to 24 V.S.A. §4451.** In accordance with 24 V.S.A. §§ 4451, 4452, the Administrative Officer shall institute in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected for violations shall be paid over to the municipality. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in 24 V.S.A. §4454.

**(D) Civil Enforcement Pursuant to 24 V.S.A 1974(a).** Penalties shall be imposed for initial, second and subsequent violations of any provision of these Development Regulations in accordance with 24 V.S.A 1974(a).

**(E) Violations in Flood Hazard Overlay District**

- (1) A copy of the notice of violation will be mailed to the State NFIP Coordinator.
- (2) 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.
- (3) 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. § 4812.

**(F) Enforcement Limitations.**

- (1) An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted within 15 years of the date the alleged violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
- (2) No action, injunction or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land records of the municipality as required by 24 V.S.A. §4449.
- (3) Nothing in this Section shall prevent any action, injunction or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to, a municipality's authority under Title 18 relating to the abatement or removal of a public health risk or hazard.

**(G) Complaints.** Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Administrative Officer on a form provided by

the municipality. The complaint shall state fully the causes and basis for the alleged violation. The Administrative Officer shall properly record such a complaint, immediately investigate, and take action as appropriate in accordance with these regulations.

## **SECTION 10.6 MUNICIPAL ADMINISTRATIVE REQUIREMENTS**

**(A) Appointments.** The following appointments shall be made in association with the administration and enforcement of these regulations as provided for in the Act:

- (1) Administrative Officer.** In accordance with 24 V.S.A. §4449, an Administrative Officer, who may hold any other office in the municipality, other than membership on the Development Review Board, shall be nominated for a term of 3 years by the Planning Commission, with the approval of the Legislative Body. The Planning Commission may also nominate, with the approval of the Legislative Body, an Acting Administrative Officer who shall have the same duties and responsibilities as the Administrative Officer in his or her absence. An Administrative Officer may be removed for cause at any time by the Legislative Body after consultation with the Planning Commission. The Administrative Officer:

  - a. shall administer these regulations literally, and shall not have the power to permit any land development which is not in conformance with these regulations;
  - b. in administering these regulations, may enter at reasonable times upon any public or private property for purposes of inspection, investigation or enforcement; and
  - c. shall provide forms and maintain records as required, and perform other tasks as needed to administer and enforce these regulations.
- (2) Development Review Board.** In accordance with 24 V.S.A. §4460, a Development Review Board consisting of not less than 3 nor more than 9 members, shall be appointed by the Legislative Body for specified terms. Vacancies shall be filled by the Legislative Body for the unexpired terms and upon the expiration of such terms. The Legislative Body also may appoint alternates to the Development Review Board for specified terms, to be assigned by the Legislative Body to serve in situations where one or more members of the Board are disqualified or absent. Members of the Development Review Board may be removed for cause by the Legislative Body upon written charges and after public hearing. The Board shall adopt rules of procedure to guide its official conduct in accordance with the requirements of 24 V.S.A. §4430 and Vermont's Open Meeting Law [1 V.S.A., §310-314]. The Development Review Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and decide:

  - a. applications for conditional use approval under Section 6.4,

## **Article 10: Administration and Enforcement**

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- b. appeals from any decision, act or failure to act by the Administrative Officer under Section 9.4,
  - c. applications for site plan approval under Section 6.3,
  - d. applications for planned unit developments under Article 9, and
  - e. applications for subdivision approval under Article 7,
  - f. variance requests under Section 10.4.
  - g. access requests under Section 3.2, review of request for waivers
  - h. review of wireless telecommunications facilities, and
  - i. any other reviews required by the bylaws
  - j.
- (3) **Planning Commission.** In accordance with 24 V.S.A §§4322,4323, a Planning Commission consisting of not less than 3 nor more than 9 voting members shall be appointed by the Legislative Body for 4-year terms; however no more than 2 Commissioners shall be reappointed or replaced during any calendar year, and a majority of Commissioners shall be residents of the municipality. Vacancies shall be filled by the Legislative Body for the unexpired terms and upon the expiration of such terms. Any member may be removed at any time by unanimous vote of the Legislative Body. The Planning Commission shall elect a chair and clerk and adopt rules of procedure to guide its official conduct in accordance with the requirements of 24 V.S.A §4323 and Vermont's Open Meeting Law [1 V.S.A., §310-314]. The Planning Commission shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and decide:
- a. requests and petitions for bylaw amendments under Section 1.4,
  - b. prepare amendments to these Regulations and other regulations as permitted by 24 VSA Chapter 117.
  - c. prepare and update the Town Plan every five years and prepare amendments to the Plan as necessary
  - d. perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of, the Act.
  - e. any other reviews required by the bylaws

**(B) Fee Schedule.** The Legislative Body shall establish a schedule of fees to be charged in administering these regulations, with the intent of covering administrative costs. In accordance with 24 V.S.A §4430, the fee schedule may include provisions which require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Municipal Clerk and Administrative Officer and may be altered or amended only by resolution of the Legislative Body.

**(C) Application Forms.** The Development Review Board is hereby authorized to prepare and revise application forms from time to time, in consultation with the Administrative Officer. In no case shall the introduction of a new or revised form have the effect of, or be construed as, amending these regulations. Application forms will be made available through the offices of the Municipal Clerk and Administrative Officer.

**(D) Hearing Notice Requirements.** In accordance with 24 V.S.A §4464, a warned public hearing shall be required for site plan review (Section 6.3), conditional use review (Section 6.4), appeals of decisions of the Administrative Officer and variances (Sections 10.3, 10.4) and final subdivision review (Section 6.5). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- a. Publication of the date, place and purpose of the hearing in a newspaper of general circulation of the municipality;
- b. Posting of the same information in three (3) or more public places within the municipalities, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- c. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
- d. For hearings on subdivision plats within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

**(E) Recording Requirements.** Pursuant to 24 V.S.A §4449, within 30 days after the issuance of a municipal land use permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in municipal land records as provided in 24 V.S.A. §1154(a). The applicant may be charged the cost of the recording fees as required by law. In addition:

- (1) Subdivision plats shall also be recorded in accordance with Section 6.6.
- (2) Permits, approvals and variances issued for development within the Flood Hazard Area Overlay District shall also be recorded in accordance with Article 4.

## **ARTICLE 11: DEFINITIONS**

### **SECTION 11.1 TERMS & USES**

**(A)** Except where specifically defined herein or in the Act, or unless otherwise clearly required by the context, all words, phrases and terms in these regulations shall have their usual, customary meanings.

**(B)** In the interpretation of words and terms used, defined, or further described herein, the following shall apply:

- (1) the particular controls the general,
- (2) the present tense includes the future tense,
- (3) the word "shall" is mandatory; the word "may" is permissive; the term "generally shall" indicates that it is mandatory unless the Development Review Board or other applicable body deems otherwise in accordance with these regulations,
- (4) the word "structure" includes "building;"
- (5) the work "road" includes "street," and
- (6) the word "lot" includes "parcel."

**(C)** For the purposes of flood hazard area regulation under Article 6.5, National Flood Insurance Program definitions contained in 44 CFR Section 510.1 are hereby adopted and shall be used to interpret and enforce these regulations. Definitions of some commonly used terms are provided herein.

**(D)** Any interpretation of words, phrases or terms by the Administrative Officer may be appealed to the Development Review Board under Section 10.3. In such cases, the Board shall base its decision upon the following definitions, state statute, and the need for reasonable and effective implementation of these regulations. The Board shall publish and update from time to time such written interpretation, to ensure consistent and uniform application of the provisions of these regulations.

**SECTION 11.2 DEFINITIONS**

**Accepted Management Practices (AMPs):** Accepted management practices (AMPs) for silviculture (forestry) defined by the Commissioner of Forests, Parks and Recreation, in accordance with 24 V.S.A. § 4413(d)(1).

**Accessory Dwelling Unit:** A distinct unit, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with the following:

- (1) The property has sufficient wastewater capacity;
- (2) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet whichever is greater;
- (4) Applicable setback, coverage and parking requirements specified in the bylaws are met 24 V.S.A. §4412 (1) (E). Accessory Dwelling Units are not permitted in a flood zone.

**Accessory On-Farm Business:** As defined in [24 V.S.A. § 4412](#).

**Accessory Structure:** A structure on the same lot with and of a nature which is incidental and subordinate to the principal structure on the lot and which is typically associated with that principal structure.

**Accessory Use:** A use of land or of a structure or portion thereof incidental and subordinate to the principal use of the land or structure and located on the same lot with the principal use.

**Acre:** For determining the maximum density on any one acre, the acre used for this determination shall measure 43,560 square feet.

**Adaptive Reuse:** The rehabilitation or renovation of an existing historic building for another use as specified in this bylaw. A building shall be considered historic if listed or eligible for listing on the Vermont Historic Sites and Structures Survey for the Town of Swanton, or the National Register of Historic Places (see Section 5.4). An historic barn shall include all barns which are 25 years old, and/or are listed or eligible for listing on the state register of historic sites and structures.

**Administrative Officer:** the Swanton Zoning Administrator.

**Affordable Housing:** As defined in 24 V.S.A. § 4303.

**Affordable Housing Development:** A housing development of which at least 50% of the units are affordable housing units.

## **Article 10: Definitions**

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**Agribusiness:** An individual or firm supplying raw materials, feed, equipment and/or services to producers of agricultural products for market.

**Agriculture:** Commercial production of crops including, but not limited to horticulture, viticulture, floricultural, vegetables, berries, grain, hay, straw, dairy, maple, apiary, animal products, seed, Christmas trees and livestock, or combination thereof, when not exempt from zoning by 24 VSA §4413 (d) or 10 VSA §6001 (22)

**Alteration:** A change in the dimension or configuration of a structure footprint or gross floor area.

**Applicant:** The owner of land or property proposed to be subdivided and/or developed in accordance with these regulations and/or his or her duly authorized representative. Any party with a legal interest in land subdivision and/or development may apply for a permit in cooperation with the owner of the property.

**Auction House:** A facility used for the temporary storage and sale on premises of new and used goods by means of a request or invitation for bids. This definition specifically excludes retail sales.

**Authorized Agent/Representative:** A person or group of persons who have been duly authorized in writing by the applicant or subdivider to act on his/her behalf.

**Bar:** An establishment used primarily for the sale and/or dispensing of alcoholic beverages for on-site consumption, where the sale of prepared food is secondary to the consumption of such beverages.

**Bed & Breakfast (B&B):** A dwelling unit or portion thereof used in whole or in part for the rental of rooms, not to exceed six (6), to overnight guests and the provision of the breakfast meal of such guests.

**Boat Sales, Storage & Repair:** A facility for the commercial sale, rental, storage and/or repair of boats. See also Boat House, Marina.

**Boundary Adjustment:** A change in location of the property line granted by the DRB between two or more existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created. The adjustment cannot create a new nonconforming parcel or increase the degree of nonconformity of an existing nonconforming parcel.

**Buffer:** An area of land used to visually separate one use from another, to shield or block noise, lights, or other nuisances, or to protect a natural resource.

**Building:** Any structure designed, built or occupied as a shelter or roofed enclosure for persons, equipment, process, animals or property.



## ***Article 10: Definitions***

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**Bylaws** – Municipal regulations application to land development adopted under the authority of 24 V.S.A. Chapter 117.

**Camp:** A dwelling unit that lacks one or more of the basic amenities, utilities or the septic capacity required for all-year, all-weather occupancy, such as running water.

**Campground:** A parcel of land upon which three or more campsites are located for occupancy by a tent, camper, cabin, lean-to, or similar structure as temporary living quarters for recreation, education, or vacation purposes. “Primitive” campgrounds are further characterized as campgrounds which are limited to substantially unimproved camp sites intended for tenting use only (see Section 4.7).

**Cemetery:** A site designed to inter or otherwise store the remains or cremains of deceased people.

**Certificate of Compliance :** An official document issued by the Zoning Administrator verifying compliance with the Town & Village of Swanton Land Use & Development Regulations.

**Child Care Facility:** as defined in 33 V.S.A. §4902(3)(A)

**Child Care Home:** A state registered or licensed facility serving 6 or fewer children on a full-time basis, and up to 4 additional children on a part-time basis as defined in statute [33 V.S.A. §4902(3)(A)] which is considered to constitute a permitted single-family residential use of property (see Section 4.9). See also Child Care Facility.

**Commercial Vehicle:** Any vehicle or equipment in excess of 10,000 lbs. gross vehicle weight (GVWR) which is used in commercial activities.

**Common Land:** Land within a development or subdivision that is not individually owned, but which is designed to be held in common for the use, enjoyment, management and maintenance by the residents of the development or subdivision. Such land may include but not be limited to open space areas, parking lots, community water and wastewater systems, pedestrian walkways, utility and road rights-of way.

**Community Care Facility:** A facility licensed by the state which provides primarily nonmedical residential care services to seven or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family or persons employed by the facility, on a 24-hour a day basis. See also Group Home.

**Community Center:** A building used for recreational, social, and cultural activities which is not operated for profit and is intended primarily to serve the population of the community in which it is located.

**Community System (Water, Wastewater):** Any water or wastewater disposal system other than a municipally-owned system which provides potable water to or disposes of wastewater from

## **Article 10: Definitions**

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two or more domestic, commercial, industrial, or institutional uses. Such systems shall include associated collection, distribution and treatment facilities.

**Condominium:** Individual ownership of a unit in a multi-unit structure (as an apartment building). See also Dwelling, Multi-family.

**Conference Center:** A lodging facility which features accommodations for single or multiple events such as, but not limited to meetings, retreats, concerts, weddings, conventions and exhibits.

**Contiguous Land:** (1) A parcel of land contained within a single, unbroken parcel boundary (a division of land by a right-of-way, including a town road, shall not render such land noncontiguous); or (2) two or more parcels which share a common parcel boundary or point.

**Contractor's Yard:** A parcel of land with or without buildings thereon to be used for the storage of equipment, materials, and/or vehicles used in the operation of construction and related trades (see Section 4.8).

**Conversion:** Changing the original purpose of a building to a different use, with or without structural alteration. This includes, but may not be limited to, the conversion of seasonal or accessory dwellings to single-family dwellings, or the conversion of a single-family dwelling to a two-family or multi-family dwelling (see Section 3.3).

**Cottage Industry:** An expanded home-based business conducted by the resident of a single-family dwelling, which is carried on within the principal dwelling and/or an accessory structure, and has no more than 12 nonresident employees on-site at any one time (see Section 4.11). See also Home Occupation.

**Coverage, Lot:** The percentage of a lot's area which is covered by buildings, structures, loading areas, parking areas, paved or graveled driveways or other impervious surfaces.

**Cultural Facility:** A museum, theater, concert hall, library or other establishment offering programs, performances or exhibits or cultural, educational, historical, or scientific interest, excluding movie theaters as a principal use. See also Recreation/Indoor.

**Deck:** An open, unroofed porch or platform extending from a house or other building or standing alone.

**Density:** The number of uses or structures permitted per area of land.

**Disabled:** A person under 65 years of age who receives Social Security disability benefits (SSDI), in accordance with applicable state and federal definitions [33 V.S.A., §§1991-1995; as recodified from 6 V.S.A. §§251-255, 1999, No. 62 §123e.].

## **Article 10: Definitions**

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**Drive-through:** A business establishment which includes a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle rather than within a building or structure.

**Driveway:** A private travel way providing access from a public road or private right-of-way to a maximum of three lots.

**Dwelling, Multi-Family (Multiple):** A building or portion thereof containing three or more dwelling units. See also Dwelling Unit, Two Family Dwelling.

**Dwelling, Seasonal:** A dwelling unit that is used or approved for use for no more than 200 days in a calendar year.

**Dwelling, Single-Family:** A detached building containing one principal dwelling unit (and up to one accessory apartment).

**Dwelling, Two-Family:** A detached building containing two ~~principal~~ dwelling units.

**Dwelling Unit:** A structure or portion of a structure intended for the habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Easement:** The authorization of a property owner for the use by another of any designated part of his/her property for a specified purpose.

**Educational Facility:** A public, private or parochial institution licensed by the State of Vermont to provide educational instruction to students. Such facilities may also include accessory recreational and dining facilities, and be used as officially designated, temporary emergency shelters.

**Elderly Housing:** Multiple dwellings in one or more buildings, each unit of which is specifically designed and intended for occupancy by at least one person who is retired and 55 years of age or older. Such housing may include accessories, congregate dining and recreational facilities, and assisted living services. See also Community Care Facility.

**Extraction:** Any breaking of ground and extraction of earth, rock or raw materials.

**Fence:** An artificially constructed barrier of a material or combination of materials erected to enclose or screen an area of land and/or mark a boundary.

**Financial Institution:** A bank, savings and loan, finance, mortgage or investment company.

**Finished Grade:** The final elevation of the ground surface, after all man-made alterations such as grading, filling or excavating have been made.

## **Article 10: Definitions**

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**Flood Proofing:** Any combination of structural and non-structural additions, changes or adjustments to properties and structures that substantially reduce or eliminate flood damage to any combination of real estate improved real property, water or sanitary facilities, structures and the contents of structures.

**Forestry:** The use and management of timber land for purposes of conservation and/or wood production and timber harvesting. This definition specifically excludes sawmills, lumber yards and other similar facilities used for the processing and/or manufacturing of wood and wood products, with the exception of portable sawmills and other equipment used on site in association with timber harvesting activities. See also Accepted Management Practices, Manufacturing.

**Frontage:** The length of the boundary of a lot which fronts a public or private right-of-way from which primary access to the principal structure on the lot is obtained.

**Funeral Home:** A building used for the preparation of the deceased for burial, for display of the deceased and for ceremonies connected therewith before the burial or cremation.

**Gallery:** A room or building for the display or sale of works of art.

**Garage Sale:** The casual sale or offering at any one time of ten or more new, used, or second-hand items of tangible personal property to the general public, which is generally advertised by such terms “garage sale,” “rummage sale,” “attic sale,” “lawn sale,” “porch sale” “barn sale” or similar phrase (see exemptions under Section 10.1).

**Garden Center:** The use of lands, buildings, or structures or part thereof for the purpose of buying or selling lawn and garden equipment, furnishings, and supplies.

**Grandfathered:** Structures, conditions or uses that pre-exist land use regulations or parts thereof and are allowed to continue in their current state even though they may not meet existing regulations.

**Greenhouse:** A business which grows flowering and other plants for wholesale or retail sale on the premises. See also Accepted Agriculture Practices, Agriculture, and Garden Center.

**Group Home:** A state licensed or registered residential care home serving not more than 8 persons who are handicapped or developmentally disabled. In accordance with 24 V.S.A §4412(G), such a group home shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another such home. For the purposes of these regulations, a group home shall also include an emergency shelter for up to 6 adults and/or children. See also Community Care Facility.

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**Health Clinic:** A building or part thereof used for the medical, dental, surgical, or therapeutic treatment of human beings, but does not include a public or private hospital or a professional office of a doctor located in his or her residence. See also Home Occupation.

**Height:** The vertical distance of a building or structure as measured from the average of the highest and lowest elevations of the finished grade at the foundation or base to the highest point on top of the building or structure, or for a gabled roof, to the average height between the eave and the ridge (see Section 3.6).

**Home Occupation:** A small business located on the operator's residential property as an accessory use that does not alter the residential character of the property.

**Homeowner's Association (HOAs):** An organization in a subdivision, planned community or condominium that makes and enforces rules for the properties in its jurisdiction.

**Industrial Retail Sales:** Premises within an industrial park where goods or merchandise are offered for retail sale to the general public for personal, business or household consumption. The goods or merchandise offered for sale to the general public must be manufactured, processed or packaged at a facility within the industrial park.

**Impervious Surface/Cover:** Manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways and walkways from which precipitation runs off rather than infiltrates.

**Improvement:** Any physical addition to real property, or any part of such addition, including but not limited to any building, structure, parking facility, wall, fencing, or landscaping.

**Interested Person:** as defined in [24 V.S.A. § 4465](#).

**Junk:** Old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.

**Junk Motor Vehicle:** A discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premises utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.

**Junk Yard:** See Salvage Yard.

**Kennel:** Any premises in which the care, boarding, breeding, grooming, or training of four or more dogs, cats, or other domestic animals is done for primarily commercial or monetary purposes.

**Land Development:** the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. (see also Subdivision).

## **Article 10: Definitions**

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**Landscaping:** The improvement of a lot, parcel, or tract of land with grass and shrubs and/or trees. Landscaping may include flower beds, pedestrian walks, retaining walls, statues, and other similar ornamental objects.

**Legislative Body:** The Selectboard of the Town of Swanton.

**Loading Space:** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used. Required off street loading space is not to be included as off-street parking space in computation of required off-street parking space (see Section 3.10).

**Lodging Establishment:** A building or group of buildings containing guest rooms for occupancy and use by transients on a short-term basis including the rental of rooms with public funds for the purpose of providing Vermont General Housing Assistance, and having a management entity operating the building(s) and provided such services as maid service, a central switchboard, or dining facilities for guests. See also Bed & Breakfast, Mixed Use, Restaurant.

**Lot Area:** The total area within the lot lines of a lot, excluding any street right-of-way.

**Lot, Corner:** A lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

**Lot Coverage:** That portion (percentage) of a lot area which is covered by buildings, structures and other man-made improvements, including parking and loading areas, access roads, service areas, and other impermeable surfaces, which prevent the infiltration of stormwater.

**Lot Depth:** Means the mean horizontal distance between the front and rear lot lines.

**Lot, Existing:** An identifiable and separate parcel of land in existence as of the effective date of these regulations, which does not adjoin any other land having frontage on a public road owned by the same person or persons. The merger of any lot prior or subsequent to the effective date of these regulations shall terminate its separate existence for the purpose of these regulations (see Section 3.5).

**Lot Line:** Any boundary of a lot other than the street line.

**Lot Line, Rear:** The lot line generally opposite to the street line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be parallel to the front lot line (street line) not less than 10 feet long, lying farthest from the front lot line.

**Lot Width:** The minimum distance between side lot lines taken at the front yard or setback line and measured at right angles to the side lot lines, or parallel to the street line.

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**Manufacturing:** Areas where the primary activity is the conversion of raw materials or parts into finished products additional to the actual production of goods, manufacturing facilities generally also have office, warehouse, research and associated functions.

**Marina:** An establishment or premises having lake or river frontage which contains launching, docking and/or mooring facilities; which sells or leases pleasure craft and boating accessories, and which may provide associated marine services such as boat storage and repair, fueling, pump-out, water taxi, charter, cruise, and towing services (see Section 4.12). See also Boat House; Boat Sales, Service & Repairs, Mixed Use.

**Mean Water Level:** as defined in the Mean Water Level Rules of the Agency of Natural Resources adopted under 20 V.S.A. § 401, which for Lake Champlain is 95.5 feet above the mean sea level.

**Mixed Use:** A building or parcel containing two or more principal uses which are otherwise allowed as permitted or conditional uses in the district in which the building or parcel is located (see Section 4.13).

**Mobile Home:** A prefabricated dwelling unit which: 1) is designed for continuous residential occupancy; (2) is designed to be moved on wheels, as a whole or in sections, 3) on arrival at the site, is complete and ready for occupancy except for incidental unpacking, assembly, and placing on supports or a permanent foundation, or installation as a unit in a previously prepared structure; and 4) contains the same water supply and wastewater disposal systems as immovable housing (see Section 3.4). See also Camper, Motor Home, Mobile Home Park.

**Mobile Home Park:** A parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, three or more mobile homes to be occupied for living purposes (see Section 4.14).

**Motor Home:** Any self-propelled vehicle not more than 35 feet in overall length which is designed for recreational use.

**Motor Vehicle Repair:** An establishment providing repair or servicing of automobiles, trucks, farm and other motorized vehicles.

**Motor Vehicle Sales:** Any lot or area of land including the building or buildings thereon, which is used for the sale and/or lease of automobiles or motor vehicles and accessory products (see Section 4.5). This definition specifically excludes automobile or motor vehicle repair services. See also Motor Vehicle Repair, Motor Vehicle Service Station, Mixed Use.

**Motor Vehicle Service Station (Gas Station):** Any building, structure or area of land use for the retail sale of automobile fuels, oils and accessories, where repair service, if any, is incidental, where no more than two (2) abandoned vehicles or other motor vehicles shall be stored on the premises, May include the sale of propane or kerosene as accessory uses.

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**Municipal Land Use Permit:** As defined in 24 V.S.A. §4303

**Municipal Plan:** The municipal plan for the Town and Village of Swanton as most recently adopted in accordance with the Act.

**Municipal System (Water/Sewer):** A municipal water and wastewater distribution, collection and treatment system, developed, operated and managed under the authority of the Swanton Village Trustees, or other municipal authority.

**Neighborhood Store:** A small retail establishment, whose business consists primarily of the sale of groceries and retail items. The sale of motor vehicle fuels, including gasoline, is specifically excluded, unless approved as a Mixed Use (see Section 4.15). See also Motor Vehicle Service Station, Mixed Use, Retail Sales & Service.

**Night Club:** An establishment which offers the sale of liquor in conjunction with live entertainment and/or dancing, and which is licensed in accordance with relevant state statutes.

**Nonconforming Structure:** A structure or part of a structure that does not conform to these regulations but was in conformance with all applicable regulations prior to the enactment of these regulations, including a structure improperly authorized as a result of error by the Zoning Administrator.

**Nonconforming Use:** The use of a land or structure that does not conform with these regulations but did conform to all applicable regulations prior to the enactment of these regulations, including a use improperly authorized as a result of error by the Zoning Administrator.

**Nursery:** See Greenhouse.

**Office:** A place where a particular kind of business is performed, such as real estate, government, architecture, lawyer or insurance services.

**Open Space:** Land not occupied by structures, buildings, roads, rights-of-way, and parking lots. Open space may or may not be held in common. "Usable open space" is further characterized as open space which is available and accessible to all occupants of the building or buildings on the lot for purposes of active or passive recreation.

**Outdoor Market:** An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public, including "farmers" and "flea" markets (see Section 4.16). See also Garage Sale, Roadside Stand.

**Outdoor Venue:** An outdoor area that primarily functions to host social gatherings by various private groups for parties, weddings, receptions, reunions, and similar group functions, etc.

**Parcel:** A tract or plot of land with definitive location and boundaries.



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**Parking Facility:** A separate off-street parking area, garage or similar structure that is the principal use of a lot.

**Parking Space:** An on- or off-street area, other than a loading or service area, of not less than 180 square feet, unless otherwise approved by the DRB, exclusive of access or maneuvering areas, ramps, columns, etc., which is to be used exclusively as a temporary storage space for one private motor vehicle (see Section 3.10).

**Patio:** An area, paved, poured concrete, or placed stones adjoining a house used as an area for outdoor lounging, dining, etc.

**Person:** Any individual, partnership, corporation, association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or affiliated ownership, which owns or controls land or other property to be subdivided and/or developed under the provisions of these regulations. The word “person” shall also include any municipality or other government agency.

**Personal Service:** A business which provides services of a personal nature, including but not limited to laundry and dry cleaning, beauty and barber shops, shoe repair, photographic studios, and similar businesses.

**Place of Worship:** A building used solely for purposes of assembly and worship by a legally established and recognized religious institution. This definition also includes such customary accessory structures such as parish houses.

**Planned Unit Development (PUD):** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards (see Article 9).

**Plat:** A map or representation on paper, Mylar or other accepted material, of a piece of land subdivided into lots and roads, drawn to scale.

**Porch:** An exterior appendage to a building, forming a covered approach or vestibule to a doorway.

**Principal Building:** A building or structure in which is conducted the main or principal use of the lot on which the building is located.

**Private Club:** An establishment operated for social, recreational, educational or cultural purposes that is open only to members and their invited guests, and not the general public.

## **Article 10: Definitions**

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**Professional Service: Establishments** or facilities providing working and/or meeting space for professional people and their clients. Professional services include but are not limited to medical, dental, attorney, engineer, certified public accountant, consultant, real estate appraiser, bank and financial institutions, architect, chiropractor, artisan/craftsman and similar professions.

**Public Improvement:** Any improvement which shall be owned or maintained by the Town or Village of Swanton.

**Public Facility:** A building or other facility owned, leased, held, used, and/or controlled exclusively for public purposes by a municipality, state or federal government, regulated utility or railroad. Such facilities include, but may not be limited to, municipal buildings and garages, water and wastewater facilities, power generation and transmission facilities, and educational facilities (see Section 4.17).

**Quarrying:** The removal of rock by means of open excavation to supply material for construction, industrial or manufacturing purposes (see Section 4.10). See also Extraction.

**Reasonable Use:** A use of real property which is allowed within the district in which the property is located, which provides some (but not necessarily all) potential benefit to the owner, and which does not lead to unreasonable interference with another's use of property, or with the natural flow of water. Reasonable use does not mean highest and best use; nor does it include accessory uses, structures, or additions which may be customary, but are not necessary, to the existing or intended principal use (e.g., garages, swimming pools).

**Reconstruct:** To replace or rebuild a building or structure which has been substantially destroyed or demolished without regard to cause.

**Recording Fee:** Fees collected for the filing of land records as required by 32 V.S.A. §1671

**Recreation/Indoor:** A commercial or municipal establishment that offers physical fitness, sports, games and other leisure-time activities primarily from within an enclosed structure.

**Recreation/Outdoor:** A facility for outdoor recreation, including but not limited to a stadium, tennis courts, golf courses, athletic fields, swimming pools, and trails for hiking, horseback riding, bicycling, snowmobiling, and cross-country skiing; except for such facilities which are accessory to an approved educational facility or a residential use. Public only: In some zoning districts such facilities are limited to publicly-owned and/or operated parks, playgrounds and facilities.

**Recreation Vehicle (RV) Sales & Service:** An establishment that sells, leases, repairs, or services recreation vehicles which may include, but not be limited to, campers (e.g., motorhomes and travel trailers) and snowmobiles. Boats and other watercraft are specifically excluded from this definition. See also Camper, Retail Sales, Boat Sales and Service.

**Redemption Center:** A store or other facility certified by the state [10 V.S.A. §1524] where a person may, during normal business hours, redeem the amount of the deposit for an empty beverage container.

## **Article 10: Definitions**

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**Restaurant:** Premises where food and drink are prepared, served and consumed primarily within the principal building. This definition includes cafes, taverns and bars, but excludes nightclubs. See also Night Club.

**Retail Sales & Service:** Premises where goods or merchandise are offered for retail sale to the general public for personal, business, or household consumption, and services incidental to the sale of such goods are provided. This definition specifically excludes the retail sale of gasoline and automobiles and other goods and services that are otherwise more specifically identified under these regulations. See also Motor Vehicle Sales & Service; Boat Sales, Storage & Repair; Neighborhood Store; Personal Service; Recreation Vehicle Sales & Service; Restaurant.

**Retaining Wall:** A vertical structure designed to hold back earth or water to prevent erosion. Examples of retaining walls include a seawall on a lakeshore or stream bank.

**Ridgeline:** The uppermost point of a ridge, hill, cliff, slope or face. It may coincide with the top (highest elevation) of a rock cliff or, where the bedrock is not exposed, the most obvious break in slope associated with the underlying bedrock. The term does not include intermediate terraces, steps, or elevations along the face of a slope.

**Road, Development:** See Private Road, Driveway.

**Road, Private:** Any road or street which is not publicly owned and maintained, excluding a private driveway serving one or two lots. The word "road" shall mean the entire right-of-way.

**Road, Public:** A road which is constructed within the boundaries of an officially deeded and accepted public right-of-way, including municipal, state and federal highways. The word "road" shall mean the entire right-of-way.

**Road Right of Way:** A road right of way shall be 50 ft wide.

**Roadside Stand:** A facility intended only for the sale of local agricultural products (see Section 4.18). See also Outdoor Market.

**Salvage Yard:** Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs. "Automobile graveyard" means a yard, field, or other outdoor area on a property owned or controlled by a person and used or maintained for storing or depositing four or more junk motor vehicles. "Automobile graveyard" does not include: an area used by an automobile hobbyist to store, organize, restore, or display motor vehicles or parts of such vehicles, provided that the hobbyist's activities comply with all applicable federal, State, and municipal law; an area used for the storage of motor vehicles exempt from registration under 23 V.S.A. chapter 7; an area owned or used by a dealer registered under 23 V.S.A. § 453 for the storage of motor vehicles; or an area used or maintained for the parking or storage of operational commercial motor vehicles, as that term is

## **Article 10: Definitions**

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defined in 23 V.S.A. § 4103(4), that are temporarily out of service and unregistered but are expected to be used in the future by the vehicle operator or owner.

**Screening:** A method of shielding or obscuring one abutting or nearby structure or parcel from another.

**Seawall:** A wall or embankment to protect the shore from erosion or to act as a breakwater.

**Setback:** The horizontal distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area), to the nearest part of a building, structure, or parking area on the premises. In the case of a public highway, the distance shall be measured from the nearest limit of the highway right-of-way (street line) or twenty-five feet from the centerline of the highway, whichever is greater. In the case of a private road, other than a driveway, the distance shall be measured from the edge of the right-of-way (streetline).

**Sign:** Any display or representation used for placed as an announcement, direction or advertisement. The word “placed” for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed or made visible in any manner whatever.

**Self-service:** See Forestry.

**Solid Waste Transfer Station:** A facility certified by the state that functions as a collection point for solid waste that will subsequently be transported to a state-approved landfill or disposal facility. The facility will include, at minimum, a receiving hopper and compacting equipment which are housed in an enclosed structure.

**State Highway:** Pursuant to 19 V.S.A. § 1 are those highways maintained exclusively by the Agency of Transportation.

**Storage Containers:** Generally meant to be so-called ocean shipping containers, Pods, truck freight units, and seasonal garages.

**Storage Facility:** A building for storing goods as an accessory to a retail store, or for the temporary storage of goods (e.g., household goods) by the general public. See also Warehouse.

**Stormwater:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**Stream:** Any surface water course in the Town of Swanton as depicted by the U.S. Geological Survey on topographic maps or as identified through site investigation; excluding artificially created irrigation and drainage channels (see also Stream Channel).

**Stream Channel:** A defined area that demonstrates clear evidence of the permanent or intermittent passage of water and includes, but may not be limited to bedrock channels, gravel beds, sand and silt beds, and swales. A stream bank may define the usual boundaries, but not the

## **Article 10: Definitions**

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flood boundaries, of a stream channel. Artificially created water courses such as agricultural irrigation and drainage ditches are specifically excluded from this definition (see also Stream).

**Street:** See Road.

**Street Line:** The dividing line between a lot and a public or private road or street, typically defined by the edge of the road right-of-way.

**Structure:** An assembly of materials on the land for occupancy or use, including but not limited to a building, mobile home or trailer, sign, wall or fence, including gas or liquid storage tanks.

**Structure, Temporary:** A structure without any foundations or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. Any temporary structure to remain on the same lot over 120 consecutive days or is moved on the same lot shall require a building permit as well as any other applicable permits.

**Subdivision:** The division of any parcel of land with or without roads into two or more parcels, lots or other legal division of land for the purposes of transfer, sale, lease, conveyance or development; with the exception of parcels to be leased for agricultural purposes where no new roads are created (see Section 6.1). The term includes boundary adjustments, amended subdivisions, re-subdivisions, and the division of land held in common among several owners; and shall also include the development of a parcel as a planned residential or planned unit development.

**Subdivision, Major:** A subdivision of land resulting in the creation of 4 or more lots, and all Planned Residential and Planned Unit Developments.

**Subdivision, Minor:** A lot/boundary line adjustment, amendments to an approved subdivision plan that will not substantially change the nature of the previously approved plan or conditions of approval, or a subdivision which results in the creation of 3 or fewer lots.

**Substantially Complete:** The completion of a permitted building or structure to the extent that it may be safely occupied for its intended use.

**Swimming Pool:** Any pool or structure installed for more than one year to be used primarily for swimming, whether installed above or below ground, which contains three or more feet of water at its deepest point, and whether for public, private or commercial use.

**Telecommunications Facility:** A support structure which is primarily for communication or broadcast purposes and which will extend vertically 20 feet, or more, in order to transmit or receive communication signals for commercial, industrial, municipal, county, state or other governmental purposes, and associated ancillary facilities that provide access and/or house equipment (see Section 4.20).

**Tiny House:** See, Dwelling, Single-Family

**Transit Facility:** A building, structure, or area designed and intended for use by persons changing transportation modes, including but not limited to bus and train stations, and park-and-ride facilities.

**Travel Trailer:** Any towed recreational vehicle which is designed for temporary sleeping or living quarters. See also Camper, Motor Home.

**Truck & Rail Terminal:** A building or property used as relay station for the loading, unloading, and transfer of goods transported by truck, or which provides containerized freight handling facilities or rail truck services, and/or where the local pick-up, delivery and temporary storage of goods incidental to the primary function of the freight shipment operation is provided.

**Use:** The purpose for which a building, structure, or parcel of land is designed, intended, occupied or used. See also Accessory Use, Structure.

**Value-Added Agricultural Enterprise (VAAE):** Value-Added Agricultural Enterprises (VAAEs) allow producers or growers to earn a greater portion of consumer expenditures by processing, packing, and/or marketing/sales of crops, livestock, or other farm resources, and on property that was formerly an agricultural use. Value-Added Agricultural Enterprise may be allowed in designated zoning districts in accordance with Section 3.4 Conditional Use Review and 6.3 Site Plan Review. Indoor recreation halls and outdoor recreation halls/areas located on a VAAE are to be located a minimum of 200 feet from all lot lines. The use of these facilities must be available as an accessory to the VAAE.

**Variance:** An allowed deviation from specific requirements pertaining to this zoning code granted by DRB to an Applicant pursuant to Section 9.4 of these bylaws.

**Veterinary Clinic:** A building or part thereof used for the care, diagnosis, treatment and temporary boarding of animals. See also Kennel.

**Warehouse:** A building used primarily for the storage, wholesale and distribution of manufactured goods and materials, and not as a primary location or outlet for business or retail uses. See also Storage Facility.

**Water courses:** Streams, brooks, and other bodies of water that flow year-round.

**Wetlands:** Areas that are inundated by surface or groundwater 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, potholes, fens, river and lake overflows, mud, flats, bogs and ponds but excluding such areas as growing food or crops in connection with farming activities.

## **Article 10: Definitions**

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**Wildlife Preserve:** A scenic, historic and/or ecologically significant area for the protection of natural resources, especially wild animals living in their natural environment, excluding publicly owned preserves.

**Yard Sale:** See garage sale.

### **SECTION 11.3 FLOOD HAZARD AND RIVER CORRIDOR DEFINITIONS**

**Area of Special Flood Hazard:** Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, including all Zone A designation on National Flood Insurance Program maps.

**Associated Transportation and Utility Networks:** means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream.

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. (commonly referred to as the “100-year flood”).

**Base Flood Elevation (BFE):** is the elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**Basement:** means any area of a building having its floor elevation below ground level on all sides, including crawlspaces.

**Channel:** means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

**Compensatory Storage:** means a volume not previously used for flood storage and which shall be incrementally equal to or exceed the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek.

**Common Plan of Development:** means where a structure will be refurbished or constructed under one approved plan or permit, but in separate stages, phases, or in combination with other construction activities. Such work may be planned unit by unit and may take place at different times, on different schedules.



## **Article 10: Definitions**

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**Construction Trailer:** means a vehicle which is: (1) built on a single chassis; (2) 500 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable; and (4) designed for use as a temporary office facility used to support management of a construction project, and not as a permanent structure.

**Critical Facilities:** means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.

**Design Flood Elevation (DFE):** in the Town and Village of Swanton means the Base Flood Elevation plus two feet.

**Designated Center:** means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. chapter 76A.

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

**Encroachment:** means fill or development that reduces the functional river corridor (impairs the equilibrium condition) or increases flood levels.

**Equilibrium Condition:** means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

**Fill:** means any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

**Flood Hazard:** means those hazards related to damage from flood-related inundation or erosion.

**Flood Insurance Rate Map (FIRM):** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Hazard Area:** Those lands subject to flooding from the 100-year flood, as defined in the existing or subsequently revised "Flood Insurance Study for the Town of Swanton, Vermont" dated September 1, 1977 and the Flood Hazard Boundary Map (FHBM) or subsequent Flood Insurance Rate Map (FIRM), published by the Flood Insurance Administration, and available at the Swanton Town Clerk's Office.



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**Flood Hazard Boundary Map (FHMB):** An official map of Swanton, issued by the Flood Insurance Administration, where the boundaries of flood and mudslide (i.e., mudflow) related erosion areas having special hazards are designated as Zone A, M, and/or E.

**Flood Insurance Study (FIS):** means an examination, evaluation, and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation, and determination of mudslide (i.e., mudflow) and /or flood-related erosion hazards.

**Floodproofing:** Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improve real property, water and sanitary facilities, structures, and their contents.

**Floodway:** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that flood hazard areas and floodways may be shown on a separate map panels.

**Fluvial Erosion:** means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.

**Grading:** means the movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered “fill” and shall not be considered grading.

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

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

## **Article 10: Definitions**

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**Maintenance:** means periodic actions required to keep up a condition and that do not significantly change the materials or extent of an existing condition in the hazard area.

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

**Mean Water Level:** The mean water level of a lake as defined in the Mean Water Level Rules of the Agency of Natural Resources adopted under 29 V.S.A. 401, which for Lake Champlain is 95.5 feet above the mean sea level.

**New Construction:** means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

**Non-residential** includes: businesses, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, industrial structures, and warehouses.

**Recreational Vehicle:** Includes any motor home, vehicle, or trailer, including travel trailers, campers, motor homes or similar, which are intended to be used as sleeping, or camping for a short period of time. Recreational Vehicle shall not mean a manufactured, prefabricated, modular or similar structure, which is intended for use as a dwelling unit.

**Replacement Structure:** means a new building placed in the same footprint as the pre-existing building and does not include a change in use.

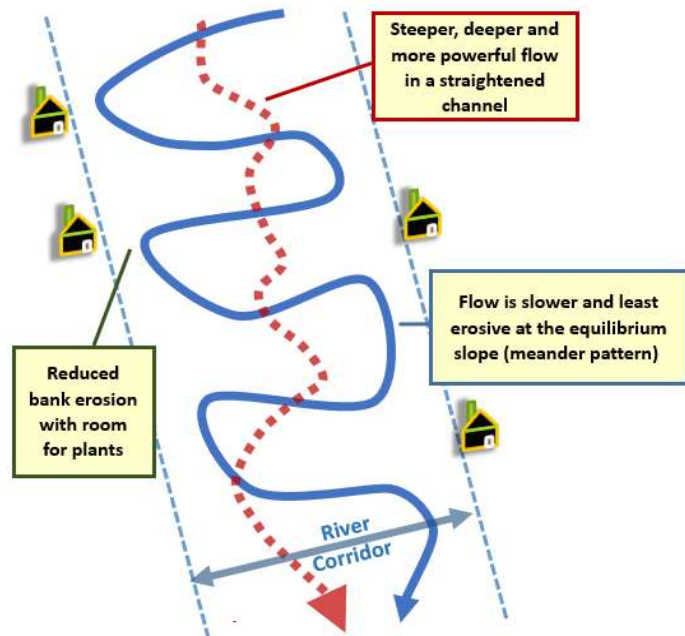
**River:** means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow. “River” does not mean constructed drainageways, including water bars, swales, and roadside ditches.

**River corridor:** means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).

**Special flood hazard area (SFHA)** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of this bylaw, the term

## Article 10: Definitions

“area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area.” This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current flood insurance studies and on the maps published by FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov). Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of special flood hazard areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.



**Start of Construction:** for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

**Storage:** means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose; whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with these development standards.

## Article 10: Definitions

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**Structure:** means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

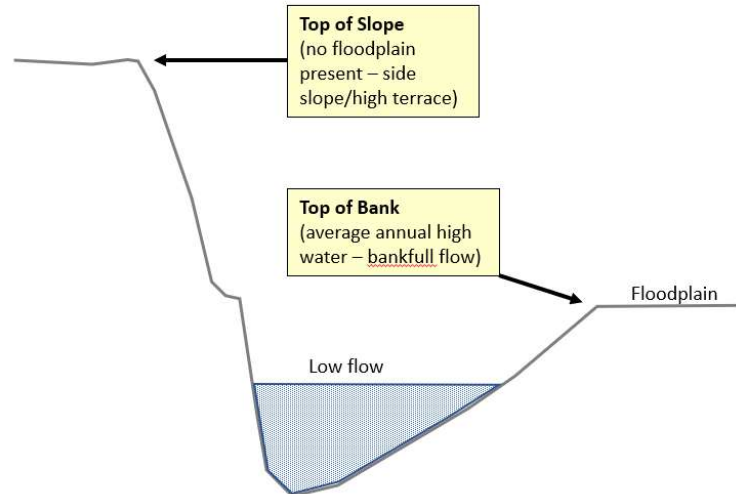
**Substantial Damage:** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.”

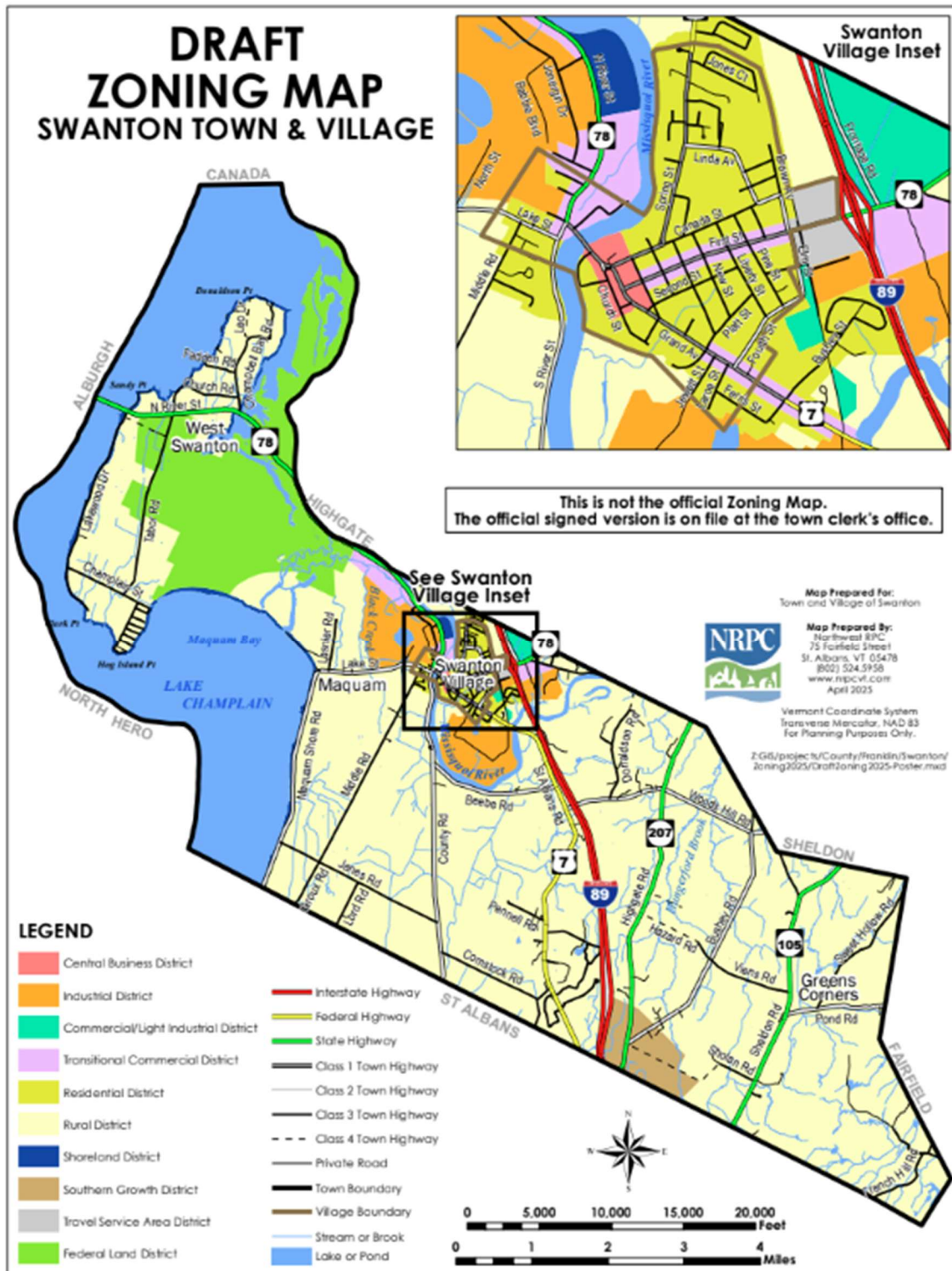
**Top of Bank:** means the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high-water stage.

**Top of Slope:** means a break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

**Violation:** means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.



## ADDENDUM



SEE NEXT PAGE FOR LARGER ILLUSTRATION.