

**DRAFT DATED August 2020**

**DRAFT Land Use Regulations  
Town of  
FERRISBURGH  
VERMONT**

Zoning Bylaws Adopted November 8, 1988  
Zoning Bylaws Amended March 6, 2001  
Zoning Bylaws Amended November 2, 2010  
Subdivision Regulations Adopted February 2, 1980

**DRAFT DOCUMENT**

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Sub-committee Revisions 3/4/20 – Article 7  
Sub-committee Revisions 3/18/20 – Subdivision  
Sub-committee Revisions 3/25/20 – Subdivision  
Sub-committee Revisions 4/15/20 – Article 5  
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**ARTICLE I GENERAL PROVISIONS**

**Section 1.1 Title**

This ordinance shall be known and cited as the Town of Ferrisburgh Land Use Regulations.

**Section 1.2 Purpose**

It is the purpose of these regulations to implement the policies set forth in the Planning and Development Act, 24 V.S.A. Chapter 117 (the Act) as amended, and the Ferrisburgh Town Plan. These regulations are designed to:

- 1. Protect the public health, safety and welfare;

2. Direct and manage growth in Ferrisburgh;
3. Promote a vital economy;
4. Conserve the town's rural agricultural landscape;
5. Protect soils, water, wetlands, forests, wildlife and other natural resources.
6. Preserve the town's quality of life; and,
7. Enhance Ferrisburgh's sense of community

### **Section 1.3 Amendments**

Amendments to these bylaws shall be prepared in accordance with Title 24V.S.A. Chapter 117.

### **Section 1.4 Repeal**

The Zoning Bylaws and Subdivision Regulations in effect in the Town of Ferrisburgh are hereby repealed as of the effective date of the adoption of these Land Use Regulations.

### **Section 1.5 Severability**

The invalidity of any provisions of these bylaws and regulations shall not invalidate any other part.

### **Section 1.6 Effective Date**

These land use regulations become effective upon approval pursuant to Title 24 V.S.A. Ch. 117

## **ARTICLE II DEFINITIONS**

### **Section 2.1 General Definitions**

Definitions contained in the Vermont Planning and Development Act shall be applicable throughout these regulations unless otherwise specifically defined in this section.

### **Section 2.2 Specific Definitions**

**ABUTTING / ADJOINING LANDOWNER:** a person who: Shares a boundary with the tract of land where the proposed or actual development or subdivision is located; or Is adjacent to a tract of land where a proposed or actual development or subdivision is located and the two properties are separated only by a public road, a river or stream.

**ACT or THE ACT:** Title 24, VSA, Chapter 117, The Vermont Municipal and Regional Planning and Development Act.

**ACCEPTED AGRICULTURAL PRACTICES:** as defined by the Secretary of the Agency of Agriculture, Food and Markets.

**ACCESS PERMIT:** A permit required for all development that requires a new or modified curb cut or access to a parcel or lot or other legal division on land. Such access permit is approved by the Selectboard through the Road Foreman for access on to town roads. Access onto Route 7 or 22A requires a State approved Access permit prior to development. (See also: "CURB CUT")

**ACCESSORY DWELLING UNIT:** A dwelling unit that is an accessory use to an owner-occupied dwelling if the area of the apartment does not exceed 30 percent of the total habitable floor area of the principal dwelling or 1000 square feet, whichever is larger.

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

**ALTERATION:** Structural change, rearrangement, change of location, increase in the number of bedrooms, enlargement or addition to a building.

**APPROPRIATE MUNICIPAL PANEL:** Appropriate Municipal Panels (AMP) in Ferrisburgh are: The Planning Commission (PC); and the Zoning Board of Adjustment (ZBA).

**BASEMENT:** Story partly or wholly underground. A basement shall be counted as a story if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is, at minimum, 6 feet.

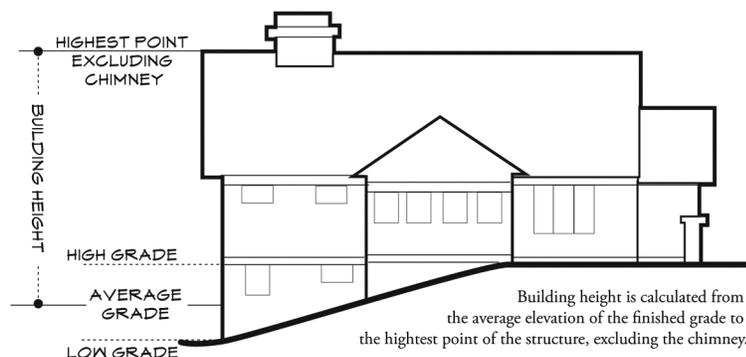
**BED & BREAKFAST:** (See SHORT TERM RENTAL)

**BOUNDARY ADJUSTMENT:** A division of land for the purpose of adjusting boundaries between adjacent lots or parcels where all of the following are met: No new lot or parcel is created; AND The boundary adjustment does not create a non-conforming use or lot; AND the Planning Commission approves the adjustment after public hearing and notice.

**BUILDING:** Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or personal property. Including, but not limited to, any permanent carport, porch, utility storage shed or mobile home.

**BUILDING AREA/FOOTPRINT:** The ground area, footprint, enclosed by the exterior surfaces of the walls of a building, together with the areas of all covered porches and other roofed portions.

**BUILDING FRONT LINE:** Line parallel to the street line transecting that point of the building that is closest to the street line. Where a lot fronts on public water but not on a public road, "high water line" (98 feet above mean sea level), or top of the river bank, shall replace "street line" in this definition. (See also LAKE CHAMPLAIN MEAN WATER LEVELS)



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

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

**BUILDING REAR LINE:** Line parallel to the street line transecting that point of the building that is

**BUILDING SIDE LINE:** Line parallel to the nearest side lot line transecting that point of the building that is nearest the side lot line.

**CAMP/SEASONAL USE DWELLING:** A dwelling unit which is not used as a primary single-family residence and which receives intermittent use on a seasonal basis for no more than six consecutive months and which probably has limited access and services.

**CAMPER:** Any motorized or non-motorized vehicle mounted on wheels and used as sleeping, camping or living quarters. This includes a camper body mounted or intended to be mounted on a truck, and excludes mobile homes. Includes vehicles described as Recreational Vehicles (RV's).

**CAMPGROUND:** Any tract of or parcel of land occupied by three (3) or more campers, tents, or tent-sites or equivalent.

**CERTIFICATE OF COMPLIANCE:** A certificate, or letter issued to an owner by the Town Zoning Administrator certifying compliance with applicable zoning regulations and permits.

**CERTIFICATE OF OCCUPANCY:** A certificate issued by the Zoning Administrator verifying conformance to approved plans and specifications on file.

**CLUSTERING:** A development design technique that concentrates buildings in specific areas on a site to allow remaining land to remain undeveloped in perpetuity and available for agriculture, forestland, open space, recreation or preservation of natural habitat or other natural or cultural features.

**COMMERCIAL PARKING LOT:** Either: A facility where, for a fee, registered motor vehicles may be parked for a period of time; or A facility, such as a used car business, where cars are parked for a period of time for sale.

**COMMUNITY CARE HOME:** See GROUP HOME

**COMMUNITY FACILITY:** Any state or community owned facility or institution such as schools, library, meeting hall, museum or other similar type of establishment.

**CONDITIONAL USE:** Use which may be permitted only by approval of the ZBA after public notice and public hearing to determine whether the proposed use will conform to general and specific standards as set forth or referred to in these regulations and pursuant to the Act.

**CONSTRUCTION DRAWINGS:** Drawings showing the location, profile grades, size and types of drains, sewers, water mains, underground fire alarm ducts, underground power and telephone ducts, pavements, cross sections of streets, miscellaneous structures, etc.

**CONTRACTOR'S YARD:** Lot and/or buildings used to store a construction contractor's equipment and materials; does not contain retail buildings or construction equipment and materials stored for retail sales.

**CONVENIENCE STORE:** A retail establishment whose principal use is the sale of products in small quantities for the daily use of customers.

**CURB CUT:** An access area, typically 60 foot wide, which is constructed in accordance with the Ferrisburgh Highway Standards; OR an access for ingress or egress to or from Route 7, or 22A for which a state permit shall be obtained. (See also "ACCESS PERMIT").

**DAYCARE CENTER OR FACILITY:** A licensed home or facility providing day care services for children or the elderly. A state registered or licensed day care facility serving 6 or fewer children shall be considered by right to constitute a permitted use of property on the same conditions as a single-family residence.

**DEGREE OF NONCONFORMITY:** The measurable extent to which an existing lot, use, structure or part of a structure fails to comply with the standards of these regulations.

**DRIVE-IN OR DRIVE-THRU FACILITY:** An establishment designed or operated to serve a patron who is seated in/on a parked/stopped motorized vehicle.

**DWELLING UNIT – See Also RESIDENCE:** Building or part thereof used as living quarters for one family which includes facilities for food preparation, sleeping and sanitary facilities. The terms dwelling unit, one-family residence, two-family residence or multi-family residence shall not include a bed and breakfast or motel.

**DWELLING UNIT, SEASONAL:** See “CAMP, SEASONAL USE DWELLING”

**EASEMENT:** The authorization by a property owner, designating a designated part or use of his or her property to another person or entity.

**EQUIPMENT SALES AND SERVICE:** A retail establishment for the display, sale, lease and repair of machinery and equipment including but not limited to farm machinery, boat equipment, recreational vehicle equipment, fishing or camping equipment.

**EXTRACTION:** Removal of stone, gravel, sand or topsoil by blasting, digging or other mechanisms.

**FAMILY:** One or more persons living, sleeping, cooking and eating on the same premises, and functioning as a single housekeeping unit.

**FARM HOUSING:** Dwelling provided specifically for person(s) working on the farm, which may be permanent, seasonal or year-round.

**FARM STRUCTURE:** A building for housing livestock, raising horticultural or orchard plants, or other activities associated with accepted agricultural or farming practices, including but not limited to a silo, greenhouse, apple packing shed, sugarhouse, tractor storage shed.

**FENCE:** (See STRUCTURE)

**FINISHED GRADE:** Completed surfaces of ground, lawn, walks, paved areas and roads brought to grade and shown on plans related thereto.

**FREIGHT OR TRUCKING TERMINALS:** The buildings, facilities and parking areas used for the loading, dispatching and storage of freight, freight vehicles, including but not limited to trains, buses and trucks.

**FRONT YARD SETBACK:** The front yard setback shall be measured from the centerline of the existing roadway or right-of-way. It consists of the depth of the front yard (distance from building front line to street line) plus the distance from the street line to the centerline of the existing roadway. Where the parcel or lot has frontage on Lake Champlain the front yard setback shall consist of only the depth from the mean water mark (95.5 feet above sea level). Where a parcel fronts on Little Otter, Otter, Lewis Creek, or Dead Creek the front yard set back shall be from the top of the bank.

**GROUP HOME/COMMUNITY CARE HOME:** Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 VSA 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

**HIGH WATER LEVEL:** 98 feet above mean sea level. See “LAKE CHAMPLAIN”

**HISTORIC BUILDING OR STRUCTURE:** Any building or structure that has been certified in writing by the Vermont Division for Historic Preservation, and/or is listed in the Historic Architecture of Addison County, Vermont Division of Historic Preservation, 1992, or any building or structure which is eligible for listing in the National Register of Historic Places, or within an historic District.

**HOMEOWNERS ASSOCIATION:** A community association, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

**HOME -BASED OCCUPATION/BUSINESS I:** Any occupation by a resident of a dwelling which utilizes a portion of that dwelling or an accessory building and is clearly secondary to the use of the dwelling.

**HOME -BASED OCCUPATION/BUSINESS II:** any occupation, small business, small industry or service type operation which is carried on within the residence or an accessory building, and that meets the provisions of Section 5.15.

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

**LAND DEVELOPMENT:** The division of a parcel into two or more parcels; the construction, reconstruction, conversion, alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill; and any change in the use of any building or other structure or land or extension of use of land. This shall also include the conversion of seasonal dwellings and / or camps to year-round use.

**LOADING SPACE:** Off-street space, which is at least twelve feet wide, forty feet long and fourteen feet high, not including access driveway, and having direct access to a street or alley, used for the temporary location of one licensed motor vehicle.

**LOT:** A plot or parcel of land and premises, with or without buildings, having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated, and having frontage on a public road or public waters, or other means of legal access. This definition includes an existing small lot that may not meet minimum area, width or depth requirements.

**LOT AREA:** Total area within the property lines including any part thereof lying within the boundaries of an existing or proposed street or right-of-way.

**LOT, CORNER:** A lot that has an interior angle of less than 135 degrees at the intersection of two streets.

**LOT COVERAGE:** That percentage of the lot area covered by the building area including patios and decks, covered or uncovered, driveways and parking areas and other impervious areas.

**LOT DEPTH:** The average of the shortest and longest distance measured along a straight line at right angle to the lot frontage from the rear lot line to the street line or front lot line. Where a lot fronts on public waters of Lake Champlain but not a public road, 'mean high water mark' of 98 feet above mean sea level, shall replace 'street line' in this definition. Where a lot has frontage on Otter Creek, Little Otter Creek, Dead Creek or Lewis Creek, Lot depth is measured from the top of the bank. Note that for measuring the setback from Lake Champlain for development purposes that the setback measurement from the Lake is set at 95.5 feet above msl, or mean water level.

**LOT FRONTAGE:** A distance measured across the width of the lot at the public road or private right of way for lot access, or, in the absence of a public road, the public waters.

**LOT LINE, REAR:** The lot line opposite and most distant from the public road or street line. Where a lot fronts on public waters but not on a public road, 'mean high water mark of 98 feet shall replace 'street line' in this definition.

**LOT WIDTH:** Shall mean the horizontal distance between the side lot lines of a lot measured along a straight line, parallel to the front line at the minimum required building setback.

**MARINA:** A use characterized by sales, repairs, derricks, docks, wharves, marine railways, boat storage areas and marina facilities for the commercial servicing, maintenance, storage, docking of vessels or the furnishing of general marina services which may include sales of food or other items clearly incidental to the operation of the other marine based activities.

**MEAN WATER LEVEL:** The terms: '*mean water mark, mean water level and normal mean watermark*' are considered to be one and the same. For Lake Champlain the mean water level has been established by the State of Vermont Water Resources Board as 95.5 feet above mean sea level.

**MOBILE HOME:** A pre-fabricated dwelling unit which is designed for long term and continuous residential occupancy, which is built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to required utilities. This definition includes "tiny houses", but does not include Recreational vehicles or travel trailers.

**MOBILE HOME PARK:** Any parcel or land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land solely used on a seasonal basis for vacation of recreational mobile homes 10 VSA 6201 (2).

**MOTEL (formerly Motor Lodge):** A building or group of buildings used for providing overnight lodging facilities to the public for compensation, with or without meals. Does not include bed and breakfast.

**MOTOR VEHICLE SALES FACILITY:** A retail establishment for the display, sale or lease of motor vehicles, including but not limited to cars, trucks, vans, campers, boats, motorcycles, farm machinery or snowmobiles, includes enclosed showrooms and parking lots.

**MOTOR VEHICLE SERVICE STATION:** Any lot or area of land including the building or buildings thereon, which is used for or which has commercial facilities for lubrication, washing, painting, repairing, or servicing motor vehicles.

**NONCONFORMING LOTS OR PARCELS:** Lots or parcels which do not conform to the present bylaws covering dimensional requirements but which were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

**NONCONFORMING STRUCTURE:** A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws

**NONCONFORMING USE:** Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws.

**PARCEL:** A tract of land in the same ownership, which may be divided by a public or private road, or right-of-way, and which may contain more than one lot (see LOT).

**PARKING SPACE:** Off-street space used for the temporary location of one licensed motor vehicle, such space being at least nine feet wide and twenty-two feet long, not including access driveway, and having direct access to a street.

**PERMITTED USE:** Use specifically allowed in the district, providing performance standards are met, excluding illegal uses and non-conforming uses.

**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. A PUD may deviate from bylaws and regulations that are otherwise applicable to the area in which it is located with respect to lot size, bulk or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

**PLAT:** A document of record graphically depicting a plot of land.

**PRIMARY/ PRINCIPAL USE:** The main use or chief purpose of land or structures, as distinguished from a secondary or accessory use.

**PROFESSIONAL AND PERSONAL OFFICE OR SERVICE:** May include architect, accountant, barber, beautician, consultant, dentist, doctor, lawyer, engineer, psychologist, therapist or other similar occupation.

**PUBLIC ROAD:** Any road accepted as a state or town highway including Class 4 roads and trails.

**PUBLIC UTILITY STRUCTURE:** A structure used in conjunction with a publicly owned utility, including, but not limited to water, sewer, cable, telephone, electricity or similar utilities.

**PUBLIC WATER SUPPLY:** A system of water supply owned and operated by a municipality, Fire District or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for purposes of public water supply.

**PUBLIC WATERS:** Navigable waters of Lake Champlain and navigable lower reaches of Otter Creek, Little Otter Creek and Lewis Creek when Lake Champlain is at mean water level of 95.5 feet above mean sea level.

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

**RECREATION, INDOOR:** Bowling alley, theater, pool hall, arcade, skating rink, gymnasium, swimming pool, or other similar places.

**RECREATION, OUTDOOR:** Walking trail, bike path, cross country ski trail, VAST trail, golf course, driving range, skating rink, park, beach, recreation stadium, skiing facility, playground, ball field, commercial stable, swimming pool, or other similar places.

RECREATIONAL VEHICLE: see CAMPER

RENEWABLE ENERGY RESOURCE STRUCTURE: A structure for the collection or conversion into energy of direct sunlight, wind, running water, organically derived fuels, including wood, agricultural sources, waste materials, waste heat and geothermal sources.

REPAIR AND SERVICE FACILITY: Any building premises or land where a business, service or industry involving the maintenance, servicing, repair or painting of machinery is conducted or rendered. A repair and service facility is not a gasoline station.

RESIDENCE, SINGLE-FAMILY: Detached building used as living quarters by one family.

RESIDENCE, TWO-FAMILY: Building used as living quarters by two families living independently of each other.

RESIDENT, MULTI-FAMILY: Building used as living quarters by three or more families living independently of each other.

RESIDENTIAL HEALTH CARE FACILITY: Any residential facility for the diagnosis or treatment of human ailments, including but not limited to hospital, sanitarium, nursing home, convalescent home, and hospice.

RESIDENTIAL USE: One-Family dwelling unit, two-family dwelling units, or multiple-family dwelling units.

RESORT: A lodging facility for transient guests and staff where the primary attractions are recreational features and activities typically within a self-contained complex and developed and operated with lodging facilities, recreation, food and other services for guests.

RE-SUBDIVISION: A change of recorded subdivision plat if such changes affect any street layout on such plat, or area reserved thereon for public use, or any change of a lot line, or any change if it affects any map or plan legally recorded.

RETAIL SALES: Shall mean an establishment whose principal use is the sale of products for consumption or use by the customer off the premises. This shall include but not be limited to hardware, paint, office equipment, sporting goods, and redemption outlets, television, automotive supply and major household appliance stores.

RETAIL STORE: Any enclosed business concerned primarily with rental or the sale of produce, products, goods, equipment or commodities; but excluding any drive-in or drive-thru facility, road side agricultural stand, gasoline or motor vehicle service station, motor vehicle sales facility, or restaurant.

RETIREMENT HOME: A residential building or complex containing multi-family dwelling designed for and principally occupied by senior citizens. Such a facility may include a common dining and recreation area.

RIGHT-OF-WAY: A legally defined right of access.

**ROAD:** (See also STREET) Any public or private right-of-way serving four or more lots, which is designed and intended for use by motor vehicles. The term includes the entire right-of-way. See also PUBLIC ROAD

**SETBACK:** Distance back from neighboring property line or from road, or from public waters, within which no structure or development shall take place unless otherwise approved through Conditional Use Review, Site Plan Review, Waivers or Variance

**SHORT TERM RENTAL:** The provision of short-term lodging, with or without meals, to transient paying guests, including but not limited to a cabin, a room in a house, cottage, barn or camper. Does not include Motel or Resort.

**SITE PLAN:** a scaled drawing which shows present and proposed uses, structures, landscape features, wastewater treatment, well heads, rights of way, easements and other information for a parcel of land.

**SITE PLAN REVIEW:** A process whereby the Site Plan is reviewed by either the Planning Commission or the Zoning Board of Adjustment

**SKETCH PLAN:** A sketch of a proposed Subdivision showing general information for assessment by Planning Commission or Zoning Board of Adjustment as a preliminary step in Subdivision process.

**SOLAR COLLECTOR:** A device or structure, combination or part thereof, that transforms direct solar energy into thermal, chemical, or electrical energy.

**STABLE:** A facility where less than four (4) horses are kept for remuneration, hire, sale or for private use. A stable shall be considered an accessory use to a single family home. Stables housing 4 or more horses are considered agricultural operations and should be treated as exempt agricultural uses.

**STORAGE TRAILER:** A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation. This includes a storage body mounted or intended to be mounted on a truck or trailer chassis.

**STREET:** (See ROAD)

**STREET LINE:** Right-of-way line of a street/road, public or private, as dedicated by a deed or other proper instrument of record. Where the width of the street is not established, the street line shall be considered to be 30 feet from the centerline of the street

**STRUCTURE:** An assembly of materials for occupancy or use, whether permanent or temporary, including, but not limited to, a building, shed, garage, manufactured home or trailer, billboard, sign, wall or fence, *except* a wall or fence on an operating farm, deck, porch, patio, swimming pool, microwave dish antenna. Structures do not include sidewalks, driveways, roads, or non-commercial parking lots, and fences less than four (4) feet in height and fences which can be seen through (non-opaque).

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

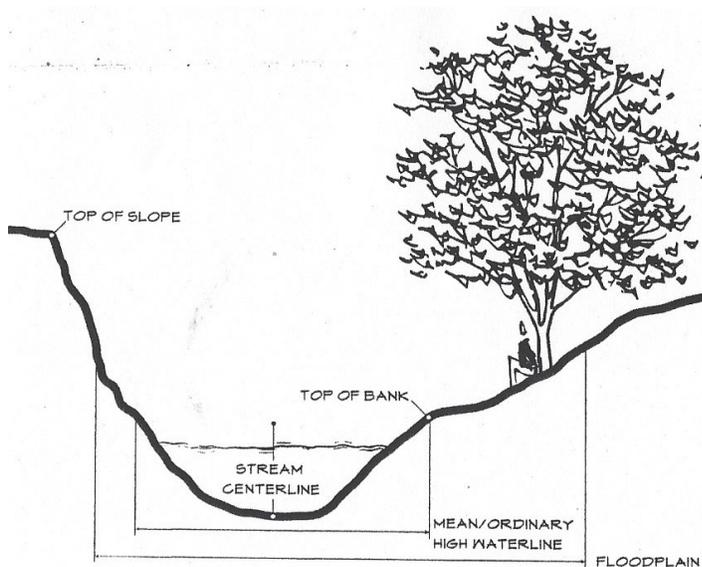
**SUBDIVISION- MINOR:** Any subdivision of land which results in 2, 3, or 4 parcels/lots, including all lots created from a single parcel within the past ten years, and which does not require any new municipal streets, street extension, or extension of municipal facilities.

**SUBDIVISION-MAJOR:** All subdivisions not classified as Minor subdivisions, including any division of land into more than 4 parcels/lots created from a single parcel within the past ten years; any size subdivision which requires the installation of new streets, utilities, or public improvements; any planned unit development.

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

**TINY HOME:** See **MOBILE HOME** if it is designed to be moved, and **BUILDING** or **ACCESSORY DWELLING UNIT** if it is not able to be moved.

**TOP OF BANK:** 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.



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

**VARIANCE:** An appeal requesting a departure from these regulations, which is granted or denied by the ZBA. All the conditions specified in 24 VSA § 4469 must exist in order for a variance to be granted.

**WAIVER:** A reduction in dimensional requirements of zoning by the ZBA or PC based on specific criteria. 24 VSA § 4414(8).

**WAREHOUSE:** A structure or part thereof for storing goods, wares, materials or merchandise. A warehouse may include a wholesale establishment, discount house, bulk storage and bulk sales outlet. Does not include gasoline, fuel, chemical, hazardous or flammable fuel storage tanks.

**WETLANDS:** See Vermont Wetland Rules.

**WIND ENERGY CONVERSION SYSTEM:** A device that converts wind energy to mechanical or electrical energy.

**ARTICLE III ZONING DISTRICTS AND ZONING MAP**

**Section 3.1 Establishment of Zoning Districts**

The following Zoning Districts are established:

Conservation District.....	CON-25
Highway Mixed Use District .....	HMU-2
Industrial District .....	IND-2
Rural Residential District .....	RR-2
Rural Agricultural District .....	RA-5
Shoreland District .....	SD-2
North Ferrisburgh Village District .....	NFVIL
Ferrisburgh Town Center.....	FTC

**Section 3.2 Zoning Map – Location of Districts**

The location and boundaries of zoning districts are established as shown on the Official Zoning Map. The Zoning Map is hereby made a part of these bylaws and a part of all future bylaws. The Official Zoning Map shall be kept on file in the Ferrisburgh Town Clerk’s Office.

**Section 3.3 Interpretation of Zoning District Boundaries**

District boundaries shall be interpreted in the following manner:

1. Boundaries indicated as following streets, highways, railroads, rivers or streams shall be construed as following the centerline of such streets, highways, road, railroad, rivers or streams unless otherwise described.
2. Boundaries indicated as following tax parcel property lines shall be construed as following such lines as they exist on the effective date of the district boundary created by these regulations.
3. Boundaries indicated as following the Lake Champlain shoreline shall be construed as following the mean high water mark, which is set at 98 feet above mean sea level.

**Section 3.4 Administration of District Boundary Rules**

When the Administrative Officer can not definitely determine the location of a district boundary, the PC shall interpret the location of the district boundary with reference to the Official Zoning Map and the purposes set forth in all relevant provisions of these bylaws.

**Section 3.5 Application of Zoning Bylaws**

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

**ARTICLE IV ZONING DISTRICT REGULATIONS**

These regulations shall apply to uses in all districts when relevant. The permitted uses and uses permitted after issuance of a conditional use permit in each district shall be subject to the specific standards set forth for that district.

### **Section 4.1 Rural Residential District (RR-2)**

#### **A. Purpose**

This district comprises areas located along existing year-round service road frontage and /or are reinforcing existing settlement patterns. It is anticipated that year-round family dwellings will comprise the major part of development in this area. Home based occupations and on-farm businesses are encouraged. A minimum lot size of two (2) acres is required for these areas to encourage their utilization and preserve remaining agricultural areas.

#### **B. Permitted Uses**

The following uses are permitted in the RR-2 District:

1. Single family residence
2. Two family residence
3. Accessory Use
4. Home Occupation or Business I
5. Daycare Facility (for less than 6)
6. Group Home/Community Care Home
7. Accessory dwelling unit.

#### **C. Conditional Uses**

The following uses may be permitted in the RR-2 District as conditional uses by the Zoning Board in accordance with these bylaws:

1. Motel, Short Term Rental
2. Recreation, outdoor
3. Cemetery
4. Home Occupation or Business II
5. Day Care Facility (for more than 6)
6. Storage trailer or shipping container.
7. Multi-family dwelling
8. On-farm Business
9. PUD

#### **D. Dimensional Standards**

- |  |          |
|--|----------|
| 1. Minimum lot size                                      | 2 acres  |
| 2. Lot frontage and lot width minimum                    | 200 feet |
| 3. Lot depth requirement                                 | 350 feet |
| 4. Front yard minimum (measured from centerline of road) | 80 feet  |
| Minimum setback on Route 7                               | 100 feet |
| 5. Rear and sideyard setbacks                            | 25 feet  |
| 6. Maximum height  | 35 feet  |
| 7. Maximum lot coverage                                  | 20%      |

### **Section 4.2 Rural Agricultural District (RA-5)**

#### **A. Purpose**

Generally, these areas are best suited for agricultural use, on-farm business, agricultural enterprises. Home occupations and businesses are encouraged. Other compatible uses would be open space, conservation and forestry. A minimum lot size of five (5) acres is required for these areas.

#### **B. Permitted Uses**

The following uses are permitted in the RA-5 District

1. Single family residence
2. Two family residence
3. Daycare facility for less than 6
4. Group Home/Community Care Home

5. Accessory use
4. Home Occupation or Business I
6. Accessory dwelling unit.
7. Storage trailer or shipping container

### C. Conditional Uses

The following uses may be permitted in the RA-5 District as conditional uses by the Zoning Board in accordance with these bylaws.

1. Short Term Rental
2. Daycare Center or Facility (for more than 6)
3. On-Farm Business
4. Farm Housing
5. PUD
6. Campground
7. Recreation, outdoor
8. Cemetery
9. Home Occupation or Business II
10. Agricultural Enterprises
11. Kennel
12. State or community owned and operated institutions and facilities
13. Public and private school and other educational institutions certified by the Vermont Department of Education.
14. Churches, convents and parish houses
15. Public and private hospitals
12. Multi- family dwelling
13. Mobile Home Parks

### D. Dimensional Standards

- |  |          |
|--|----------|
| 1. Minimum lot size                                      | 5 acres  |
| 2. Lot frontage and lot width minimum                    | 400 feet |
| 3. Lot depth requirement                                 | 450 feet |
| 4. Front yard minimum (measured from centerline of road) | 80 feet  |
| Minimum setback on Route 7                               | 100 feet |
| 5. Rear and side-yard setbacks                           | 25 feet  |
| 6. Maximum height  | 35 feet  |
| 7. Maximum lot coverage                                  | 10%      |

## Section 4.3 Conservation District (CON-25)

### A. Purpose

The purpose of the conservation district is to protect high elevations, wetlands, wildlife, flood hazard areas and discourage development of remote, unserved areas which are unsuitable for residential and commercial development. State and municipal preserves are also included in these areas. Many of these areas have limited road access and it is the plan's policy not to provide such service. Land use permitted in this district should be compatible with the limitations of these areas, such as agriculture, forestry, non-commercial recreation use, hiking trails, which use does not create any erosion problems or harm any significant resources such as unique vegetation. Camps and single family residences shall receive site plan review in regard to sewage, water, access, frontage and scenic considerations. A minimum lot size of twenty-five (25) acres is required of these areas.

### B. Permitted Uses

The following uses are permitted in the CON-25 District – with Site Plan Review

1. Accessory dwelling unit.
2. Home Occupation/Business 1

**C. Conditional Uses**

The following uses may be permitted in the CON-25 District as conditional uses by the Zoning Board in accordance with these bylaws.

1. Recreation, outdoor
2. Seasonal dwelling unit / Camp
3. Single family residence
4. Home Occupation/ Business II
5. Parking lot as an accessory use to outdoor recreation
6. Accessory dwelling, 2 bedroom
7. Storage trailer
8. Marina

**D. Dimensional Standards**

- |  |          |
|--|----------|
| 1. Minimum lot size                                      | 25 acres |
| 2. Lot frontage and lot width minimum                    | 500 feet |
| 3. Lot depth requirement                                 | 500 feet |
| 4. Front yard minimum (measured from centerline of road) | 80 feet  |
| Minimum setback on Route 7                               | 100 feet |
| 5. Rear and sideyard setbacks                            | 25 feet  |
| 6. Maximum lot coverage                                  | 5%       |

**Section 4.4 Highway Mixed Use District (HMU-2)****A. Purpose**

It is the primary policy of this district to provide an area to serve highway oriented businesses and highway uses. The size of the commercial uses should be restricted to protect the residential and mixed use character and traffic access in this and adjoining districts. It is recommended that access to all highway commercial areas be limited in number, if practical, by use of multi-lot access roads, to promote safety and to ease traffic flow on public roads. A minimum lot size of two (2) acres is required for these areas.

**B. Permitted Uses**

The following uses are permitted in the HMU-2 District

1. Single family residence
2. Accessory dwelling unit
3. Day care facility (less than 6)
4. Group Home/Community Care Home
5. Home Occupation or Business I

**C. Conditional Uses**

The following uses may be permitted in the HMU-2 District as conditional uses by the Zoning Board in accordance with these bylaws.

1. Carwash
2. Churches, convents and parish houses
3. Community facility
4. Club
5. Drive-in or Drive Thru
6. Commercial parking lot
7. Contractors yards
8. Enclosed accessory use
9. Home Occupation or Business II
10. Gasoline station
11. Convenience Store
12. Freight or trucking terminals

13. Indoor recreation facility
14. Laundromat
15. Manufacturing facility
16. Mortuary
17. Motel
18. Motor vehicle, mobile home, trailer, farm implement or industrial equipment sales and service
19. Professional, Personal, Office or Service
20. Multi-family residence
21. Public and private schools and other educational institutions and facilities
22. Public and private hospitals
23. Restaurant, Bar
24. Retail sales and service
25. Storage trailer or Shipping container
26. Self-Storage Units
27. State or community owned and operated institutions and facilities
28. Warehouse

**D. Dimensional Standards**

- |                                       |          |
|---------------------------------------|----------|
| 1. Minimum lot size                   | 2 acres  |
| 2. Lot frontage and lot width minimum | 200 feet |
| 3. Lot depth minimum                  | 300 feet |
| 4. Front yard minimum                 | 100 feet |
| 5. Rear yard minimum                  | 50 feet  |
| 6. Side yard minimum                  | 25 feet  |
| 7. Building height maximum            | 35 feet  |
| 8. Lot coverage maximum               | 25%      |

**Section 4.5 Industrial District (IND-2)**

**A. Purpose**

It is the policy of this district to provide an area for limited growth of new industry and the continuation of the present industrial uses. Industrial use shall be subject to review to protect residential amenities. They shall be located with easy access to highway and rail services. The size of the industrial uses shall be restricted to protect the residential character in adjoining districts. It is recommended that access to all land areas be limited in number to promote safety and to ease traffic flow on public roads. A minimum lot size of two (2) acres is required for these areas.

**B. Permitted Uses**

The following uses are permitted in the IND-2 District

1. Accessory dwelling unit.
2. Home Occupation or Business I

**C. Conditional Uses**

The following uses may be permitted in the IND-2 district as conditional uses by the Zoning Board in accordance with these regulations.

1. Warehouse
2. Public utility
3. Enclosed service and repair
4. Freight and trucking terminal
5. Contractor's yard
6. Warehouse
7. Public garage
8. Parking lot
9. Accessory use

10. Storage trailer or Shipping container
11. Public utility power generating plants and transmission lines
12. Manufacturing Facility

#### **D. Dimensional Standards**

- |  |  |
|--|--|
| 1. Minimum lot size  | 2 acres  |
| 2. Lot frontage and lot width minimum                                  | 200 feet   |
| 3. Lot depth minimum   | 300 feet   |
| 4. Front yard minimum  | 100 feet   |
| 5. Front yard minimum on Route 7 between Route 22A and railroad tracks | 200 feet   |
| 6. Rear yard minimum   | 50 feet, or 100 feet from abutting residential districts |
| 7. Side yard minimum   | 25 feet or 100 feet from abutting residential districts  |
| 8. Building height maximum   | 35 feet  |
| 9. Lot coverage maximum  | 40%  |

### **Section 4.6 Shoreland District (SD-2)**

#### **A. Purpose**

Generally this district includes concentrations of existing commercial and residential uses, and nonconforming, previously established parcels, adjacent to large, substantially undeveloped tracts of land. It is recommended that development in this area be considered in the context of a PUD with detailed standards and conditions developed for adequate evaluation by the town. A minimum lot size of two acres is required for these areas. Many of these areas have limited road access and it is the plan's policy not to provide such service. Land use permitted in this district should be compatible with the limitations of the area and not create any erosion problems or harm any significant resources such as unique vegetation. Camps and single family residences shall receive site plan review in regard to sewage, water, access, frontage and scenic considerations.

#### **B. Permitted Uses**

The following uses are permitted in the SD-2 District

1. Accessory dwelling, efficiency or 1 bedroom
2. Home Occupation or Business I

#### **C. Conditional Uses**

The following uses may be permitted in the SD-2 District as conditional uses by the Zoning Board in accordance with these bylaws.

1. Single family residence.
2. Two family residence
3. Camp / Seasonal Dwelling Unit
4. Short Term Rental
5. Cemetery
6. Accessory use
7. Home Occupation II
8. Accessory dwelling, 2 bedroom
9. Community facility
10. Club
11. Bar
12. Recreation, indoor and outdoor
13. Retail store
14. Professional and Personal Office or Service.
15. Marina
16. Greenhouse
17. Nursery
18. Restaurant

19. Motel
20. Resort
21. Permanent boat hoists and launching ramps, permanent docks and stairways, manmade or improved beaches, shore stabilization, and retaining walls on the shoreline
22. Storage trailer
23. State or community owned and operated institutions and facilities
24. Public and private schools and other educational institutions certified by the Vermont Department of Education
25. Churches, convents and parish houses
26. PUD

**D. Dimensional Standards**

- |                                       |          |
|---------------------------------------|----------|
| 1. Minimum lot size                   | 2 acres  |
| 2. Lot frontage and lot width minimum | 200 feet |
| 3. Lot depth minimum                  | 300 feet |
| 4. Front yard minimum                 | 80 feet  |
| 5. Rear and sideyard setbacks         | 25 feet  |
| 6. Building height maximum            | 35 feet  |
| 7. Lot coverage maximum               | 20%      |

**Section 4.7 North Ferrisburgh Village District (NFVIL)**

This District is established to recognize the pre-existing mixed uses of land that developed historically in the North Ferrisburgh Village, and where lots may be non-conforming to present standards. It is the policy in this district to allow for enhancement of existing residences and businesses, the addition of new low impact and home-based businesses, and to promote future development that is in keeping with the character of the area.

**A. Permitted Uses**

The following uses are permitted in the NFVIL District

1. Single family residence
2. Two family residence
3. Accessory dwelling, efficiency or 1 bedroom
4. Home Occupation or Business I
5. Accessory Use
6. Retail store
7. Personal Service Establishment
8. Multi-family residence
9. Group Home/Community Care Home
10. Day care facility (less than 6)

**B. Conditional Uses**

1. Recreational facilities
2. Community facilities
3. Motor vehicle, recreational vehicle, farm implement, sports equipment sales and service
4. Home occupation/Business II
5. Club
6. Restaurant
7. Short Term Rental
8. PUD

**D. Dimensional Standards**

- |                                       |          |
|---------------------------------------|----------|
| 1. Minimum lot size                   | 2 acres  |
| 2. Lot frontage and lot width minimum | 200 feet |

4. Lot depth minimum	200 feet
5. Front yard minimum setback from center of road	100 feet
6. Rear yard minimum setback	25 feet
Accessory structure 10 feet	
7. Side yard minimum setback	25 feet
Accessory structure 5 feet	
8. Building height maximum	35 feet
9. Lot coverage maximum	40 %

#### **Section 4.8 Ferrisburgh Town Center (FTC)**

##### **A. Purpose:**

This District is located roughly in the center of town, from Little Otter Creek in the south, north along Route 7 to the north property line of Atkins Farm Road. It is the policy in this district to encourage a mix of uses, Municipal, School, Recreation, Church, Post Office, highway commercial, residential, home occupation and business in an area which is pedestrian friendly. PUD and creative development designs are encouraged.

##### **B. Permitted Uses:**

1. Single family residence
2. Two family residence
3. Accessory dwelling, efficiency or 1 bedroom
4. Home Occupation or Business I
5. Accessory Use
6. Retail store
7. Personal Service Establishment
8. Group Home/Community Care Home

##### **C. Conditional Uses**

1. Multi-family residence
2. Churches, convents and parish houses
3. Community facilities
4. Club
5. Convenience Store
6. Drive-in or Drive Thru
7. Enclosed accessory use
8. Home Occupation or Business II
9. Gasoline station
10. Indoor recreation facility
11. Laundromat
12. Motel
13. Motor vehicle, mobile home, trailer, farm implement or industrial equipment sales and service
14. Professional, Personal, Office or Service
15. Public and private schools and other educational institutions and facilities
16. PUD
17. Recreation Facilities
18. Restaurant, Bar
19. Retail sales and service
01. Short term rental
21. State or community owned and operated institutions and facilities

##### **D. Dimensional Standards**

- |                                       |          |
|---------------------------------------|----------|
| 1. Minimum lot size                   | 1 acre   |
| 2. Lot frontage and lot width minimum | 200 feet |
| 3. Lot depth                          | 200 feet |

4. Front yard setback minimum from center of Route 7	100 feet
Front yard setback minimum from other roads	25 feet
5. Rear yard setback minimum	15 feet
Accessory Structure 10 feet	
6. Side yard setback minimum	
Accessory structure 5 feet	
7. Building height maximum	35 feet
8. Lot coverage maximum	40 %

## **ARTICLE V GENERAL BYLAWS**

### **Section 5.1 Abandonment of Structures**

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

### **Section 5.2 Accessory Uses and Buildings**

An accessory use or building must conform to lot setback, lot coverage and building height requirements for the district in which it is located.

### **Section 5.3 Affordable Housing**

These regulations shall be interpreted to promote and protect affordable housing as follows:

- A. In accordance with the Act no provision of these regulations shall have the effect of excluding mobile homes, modular housing, or other forms of pre-fabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded.
- B. Mobile homes shall be treated as, and meet all requirements pertaining to single-family residences except within permitted mobile home parks in accordance with PUD regulations.
- C. These regulations shall promote accessory dwelling units in all districts allowing single-family residences.

### **Section 5.4 Campers, Recreational Vehicles and other temporary shelters.**

It shall be unlawful for any person to park a camper except:

- A. In an approved campground; or
- B. In an approved camper sales lot; or
- C. The owner of a camper may park it on his/her own property provided it is:
  - 1. Not used as permanent living quarters; and
  - 2. Not hooked up to water or sewer utilities.
- D. Any wastewater or sewage generated from a camper, boat or other temporary shelter shall be disposed of in accordance with all applicable state and federal regulations.
- E. Invitees may also park campers in the same manner as required of any owner on his/her own property for a period of time not to exceed fourteen days.

### **Section 5.5 Construction Approved Prior to Adoption of, or Amendment to Regulations**

- A. A new permit is not required for any building upon which construction has begun pursuant to a previously issued permit, prior to the effective date of these regulations, provided such construction is completed in accordance with the regulations in force at the time the permit was issued
- B. The Town shall not require any change in the plans for, or construction of, a structure or use for which a zoning permit has been issued and which has subsequently been made non-complying or non-conforming by an amendment to these bylaws if the activities authorized by the zoning permit are completed while the permit is valid.

### **Section 5.6 Corner Lot Exceptions**

For the purpose of determining setback requirements, any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front yards and side yards.

### **Section 5.7 Existing Small Lots**

- A. Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of zoning regulations adopted pursuant to the Act may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.
- B. A nonconforming lot may be deemed merged if it comes into common ownership with one or more contiguous lots and may not be separately conveyed except as provided in Paragraph (B).
- C. A nonconforming lot shall not be deemed merged if it comes into common ownership with one or more contiguous lots and may be separately conveyed in its pre-existing configuration provided it can meet any of the following:
1. The nonconforming lot was developed with a water supply and wastewater; or disposal system as of the effective date of these regulations;
  2. The deeds of conveyance create appropriate easements for an off-site location for water supply and wastewater disposal systems to serve the nonconforming lot; or
  3. All parties submit a signed letter indicating that they understand that the lot is nonconforming and it may not be able to be developed if a potable water and wastewater permit is not issued by the state.
  4. All applicable state permits have been obtained for the proposed use of the property.

### **Section 5.8 Extraction of Subsoil, Sand, Gravel or Stone**

The removal of subsoil, sand, stone or gravel for sale, including that which is incidental to construction of a building, pond, canal, conservation ditch or conservation practice, on the same premises, shall be a conditional use. The removal of subsoil, sand or gravel which is not incidental to a construction project on the same premises shall be a conditional use and is allowed only in the Industrial District. The following provisions shall apply:

- A. Before approval of any new sand or gravel operation, or extension thereof, a performance bond may be secured from the applicant sufficient to ensure that upon completion of the extraction operation the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this. The bond, if required, shall be sufficient to cover the cost of the plan.
- B. The removal of all material shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to refill such pit.
- C. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the ZA.
- D. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the ZA.
- E. No excavation, blasting or stockpiling of materials shall be located within two hundred feet of any street or other property line.
- F. No power-activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
- G. All excavation slopes in excess of 40% shall be adequately fenced as determined by the ZA.
- H. Extension of an existing non-conforming operation shall not be permitted.
- I. Removal of topsoil for sale or for use on other premises, except as may be incidental to a construction project on the site which the soil is being removed, shall be prohibited.
- J. The Zoning Board may attach any additional conditions it may find necessary for the

safety and general welfare of the public.

### **Section 5.9 Filling of Land**

In any district a zoning permit is required for the depositing of rock, concrete, stone, gravel, sand, cinders, stumps and soil or other material used for the filling of land. The ZA may issue a permit provided the applicant demonstrates that the activity will not significantly alter existing drainage patterns, cause soil erosion or result in any hazard or expense to the community. State laws governing the filling of land must be adhered to.

### **Section 5.10 Freestanding Dishes and Antennas See 24 VSA 4412 (8)**

Except to the extent that bylaws protect historic landmarks and structures listed on the State or National Register of Historic Places, no permit shall be required for placement of an antenna, or dish used to transmit or receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna or any mast support does not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

### **Section 5.11 Gasoline Station**

Gasoline stations shall only be allowed in the Highway Mixed Use district and shall comply with all Federal and State laws, and with the following:

- A. A gasoline station lot shall not be located within 500 feet of any school, hospital, library or religious institution.
- B. Lot size shall be at least two acres.
- C. Lot frontage shall be at least 200 feet.
- D. Lot depth shall be at least 300 feet.
- E. Pumps, lubrication and other service devices shall be located at least fifty feet from the street line and side and rear lot lines.
- F. All fuel and oil shall be stored at least 50 feet from any property line.
- G. All automobile parts and dismantled vehicles are to be stored within a building unless screened from public view.
- H. No signs shall extend beyond the pumps, nor exceed eighteen feet in height.
- I. There shall be no more than two access driveways from the street. The maximum width of each access driveway shall be forty feet.
- J. A suitable curbed landscaped area shall be maintained at least five feet in depth along all street frontage not used as driveway.

### **Section 5.12 Grading**

No grading, cutting or filling which leaves the slope of the finished grade in excess of 50% shall be carried out in any district.

### **Section 5.13 Home Occupations and Home Businesses**

No regulation herein is intended to infringe upon the right of any resident to use a minor portion of a dwelling for an occupation or business which is customary in the zoning District in which they live, and which does not change the character thereof.

A zoning permit application shall be submitted to the ZA so that a determination can be made as to whether the proposed use is, in fact, a home occupation I or home occupation II as defined by these bylaws.

### **Section 5.14 Home Occupation/Business I Requirements**

- A. The home occupation shall be carried on by members of the family/residents living on the premises only.
- B. No exterior displays or signs shall be permitted other than one sign not exceeding four square feet in total area.
- C. No traffic shall be generated in greater volume than would be normally expected in the neighborhood.
- D. Excessive noise, smoke, vibrations, dust, glare, odor, electrical interference or heat that is detectable at

- the boundaries of the premises shall be prohibited.
- E. Parking shall be provided off street and shall be located in the side or rear yard.
  - F. No exterior storage of material shall be permitted.
  - G. If these requirements are all met, the ZA may issue a permit, unless the use is deemed to be a conditional use.

#### **Section 5.15 Home Occupation/Business II Requirements**

- A. The home occupation may have employees other than family members.
- B. The home occupation may be carried on in the dwelling or in an accessory building.
- C. The home occupation shall have enough parking spaces as deemed necessary by the Zoning Board. Parking shall be in the rear or side lot. There shall be at least two parking spaces for family members.
- D. The Zoning Board will set noise levels, outside lighting, or any other conditions that will insure that the character of neighborhood will not change.
- E. There should be no substantial increase of traffic.
- F. All materials shall be inside or screened from the road and neighbors.

#### **Section 5.16 On Farm Businesses and Agricultural Enterprise Standards.**

- A. The provisions of this section are intended to encourage and support Ferrisburgh's rural economy and character by allowing for, and encouraging small businesses that are integrated with agriculture.
- B. Ferrisburgh adopts a less restrictive Bylaw than provided in the state regulations.
- C. An Accessory on-farm business will be allowed as a permitted use with site plan review, in all districts.
- D. An Agricultural Enterprise may be allowed in specified districts as a conditional use.
- E. An Accessory on-farm business must:
  1. Be located on-farm;
  2. Be operated by the farm owner, a lessee of a portion of the farm, or one or more people residing on the farm;
  3. May store, prepare, process or sell agricultural products produced on farm.
  4. Feature agricultural practices or qualifying products if hosting educational, recreational or social events;
  5. Conform to all applicable standards of these regulations, and obtain and operate in accordance with required state licenses.
- F. An Agricultural Enterprise must:
  1. Be engaged in storage, preparation, processing, and/or sale of agricultural products
  2. Generate more than 50% of its total annual sales from agricultural products that are principally produced in Vermont or within 30 miles of Vermont
  3. Conform to all applicable standards of these regulations, and operate in accordance with all required state licenses.

#### **Section 5.17 Adaptive Reuse of Agricultural Structures**

The zoning board may approve as a Conditional Use a new use within the current dimensions of former agricultural building. Any exterior renovations needed to accommodate the new use must be compatible with the original architectural design of the structure. Any application to the ZBA for adaptive reuse of an agricultural structure shall be reviewed under Conditional Use.

#### **Section 5.18 Interior Lots**

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

#### **Section 5.19 Landscaping**

- A. Where any commercial or industrial use abuts any residential district, a strip of land at least twenty

five feet in width shall be maintained as a landscaped area in the front, side, or rear yards which abut the residential district.

- B. The outdoor storage of trash shall be screened or hidden from public view and view of persons in residential districts. In commercial or industrial districts such storage shall be screened and located to the rear of the buildings.
- C. Landscaping required by these regulations shall consist, at a minimum, of evergreen trees, shrubs and protective ground cover. One evergreen tree at least ten feet in height shall be planted no nearer than ten feet to any lot line for each three hundred square feet of required landscaped area and shall be located to minimize potential shading of south facing surfaces of adjacent residences or solar energy systems. One shrub shall be planted for each two hundred square feet of required landscaped area. Protective ground cover is required for the entire landscaped area.

#### **Section 5.20 Lots In Two Zoning Districts**

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty feet into the more restricted part.

#### **Section 5.21 Projection into Setbacks**

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

#### **Section 5.22 Public Utility Substations**

Public utility substations and similar utility structures, where permitted, shall comply with the following:

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

#### **Section 5.23 Reduction of Lot Area**

No lot shall be so reduced in area that the area, yards, frontage, coverage or other requirements of these regulations do not conform to the requirements herein prescribed for each district. The provisions of this section shall not apply to a PUD or when part of a lot is taken for a public purpose.

#### **Section 5.24 Required Area of Yards**

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

#### **Section 5.25 Required Frontage and Access**

- A. No land development shall be permitted on lots which do not have either frontage on a public road (State Class 1, 2, & 3) or, with approval of the PC, access to such a road by permanent easement or right-of-way of at least 60 feet in width, which could, if developed, serve as a year-round access by automobile.
- B. Any activity for which a zoning permit is required and which involves the construction or modification of a driveway intersecting with a public right-of-way shall obtain an Access Permit from the Road Foreman if access is onto a Town Road or, if property will access onto US Route 7 an Access Permit approved by the State Agency of Transportation. Such approved access permit shall be obtained prior to issuance of a zoning permit. The Selectboard may attach conditions to the access permit with respect to design, construction, landscaping or location of such driveway in order to ensure safety, provide access by emergency vehicles, minimize traffic difficulties and minimize erosion.
- C. For access subject to site plan review by the PC, the Commission may require changes or additions in relation to yards, driveway entrances and exits, landscaping, and the location and height of buildings, and enclosures to ensure safety, minimize traffic difficulties and to safeguard adjacent properties.
- D. No lot shall be served by more than one access road or driveway unless otherwise permitted under site plan, subdivision or PUD review. Access points, including curb cuts shall be limited to those approved.
- E. In all districts on a corner lot, within the triangular area formed by the intersection of two roads and a line joining them at points 25 feet away from the intersection, there shall be no obstruction to vision between the height of 3 feet and 10 feet above the average grade of each road.
- F. Frontage requirements for any lot served by a private right-of-way shall be the same as the dimensional requirements for a lot served by a public right-of-way.
- G. All driveways shall have installed tubing or culverts where needed to assist flow of surface water.

#### **Section 5.26 Roadside Agricultural Stands**

Temporary roadside stands for the sale of agricultural products raised on the property may be erected provided that:

- A. No stand shall be closer to any side or rear lot line than twenty feet.
- B. Off-street parking space shall be provided for at least two motor vehicles.
- C. Access to or egress from any stand shall not create a traffic hazard.

#### **Section 5.27 Solar and Wind Energy Systems**

- A. Power generation and transmission facilities regulated by the Vermont Public Utilities Commission may not be regulated in any manner under municipal bylaws. These included wind towers and other private generating facilities that are net metered or hooked into the power grid.
- B. Systems not regulated by the PUC must secure a town zoning permit and are subject to the following:
  1. A solar energy system, whether as a part of a building or incidental to a building, is a permitted accessory use within all districts.
  2. Ground-mounted solar facilities in the Conservation and Shoreland Districts must be sited so as to minimize visual impact.
  3. A wind energy conversion system is a conditional use. The ZBA will consider the following criteria in addition to the general standards specified under Conditional Use:
    1. Climbing access to the tower shall be restricted.
    2. For rotors 20 feet in diameter or less, a setback from all lot lines shall be 275 feet minus 11 feet for each foot of rotor diameter less than 20 feet.
    3. For rotors larger than 20 feet in diameter, a setback from a lot line shall be 275 feet plus 6 feet for each foot of rotor diameter greater than 20 feet.

#### **Section 5.28 Storage of Flammable Liquids**

The storage and handling of flammable and combustible liquids shall comply with the relevant Federal and State Laws.

#### **Section 5.29 Temporary Uses and Structures**

A permit may be issued by the ZA for the period not exceeding one year after approval by the Zoning Board for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

### **Section 5.30 Day Care Facilities**

- A. A Day Care/Child Care facility that meets all of the following standards shall be allowed to the same extent that the zoning district allows single-family dwellings.
1. A resident of the dwelling in which the use is occurring shall operate the childcare home.
  2. The day care/child care home shall be operated under state licensing or registration.
  3. The facility shall serve 6 or fewer children.
  4. One unlit exterior sign shall be permitted in accordance with Article 7.
  5. The day care/ child care activities shall occur primarily with the dwelling. This should not be interpreted to prohibit use of other parts of the home or property such as porches, decks or yards for children's play areas as is customary in residential areas.
- B. Daycare facilities that do not meet the above definition may be allowed in designated zoning districts subject to conditional use approval, as well as site plan review where required.
1. The daycare facility shall be operated under state licensing or registration.
  2. Parking shall be provided on-site in accordance with Article 6.
  3. Signage shall be in accordance with these Article 7.
  4. Lighting shall be in accordance with these regulations.
  5. Daycare facilities shall meet all performance standards in accordance with Article 8.

### **Section 5.31 Group Home/Community Care**

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

### **Section 5.32 Mobile Home Parks**

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

### **Section 5.33 Erosion Control**

- A. An application for land development that meets any of the following criteria must include an erosion control plan for the application to be deemed complete.
1. If there is to be any disturbance on slopes of 15% or steeper.
  2. If there is to be any disturbance at the edge of a regulatory setback of a lake, pond, stream, wetland or vernal pool.
  3. If there is to be any disturbance to an existing channel, ditch or other concentrated stormwater conveyance.
  4. If the total area of disturbance is 10,000 square feet or greater.
- B. The soil erosion plan(s) shall, at a minimum, incorporate the accepted management practices as recommended by the Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control as most recently revised.
- C. Development that obtains a State Construction General or Individual Permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditioned upon an applicant submitting a copy of the applicable State permits, if required, to the ZA prior to the start of construction.

### **Section 5.34 Wetland Protection**

- A. In order to protect water quality and wetland functions, land development, soil disturbance, including fill, with limited exceptions listed in the State and Federal laws, is prohibited without a State or Federal permit. Wetlands are shown on most recent Vermont Natural Resources Atlas, or as delineated in the field by a qualified professional, and are defined by State and Federal Laws.
- B. Natural vegetation must be maintained within wetlands and the 50 foot wide State wetland buffer.
- C. An application for any development within a wetland or wetland buffer must include a sign off from the Vermont Agency of Natural Resources' wetland ecologist for the application to the Town to be deemed complete.
- D. The Applicant shall obtain all necessary State and Federal permits for development within wetlands or wetland buffers prior to the start of construction.

#### **Section 5.35 Riparian Buffers Protection**

- A. Land development, soil disturbance, including fill, with limited exceptions, is prohibited in riparian buffers in order to protect water quality, riparian habitat, to prevent surface runoff and accelerated soil erosion.
- B. Native woody vegetation must be maintained where practical in the 50 foot riparian buffer, as measured horizontally from the top of bank for rivers and streams on both sides and from the Mean Water Level for lakes and ponds. All rivers, streams, lakes and ponds subject to this regulation are shown on the most recent Vermont Natural Resources Atlas.
- C. The provisions of this section do not apply to land located along Lake Champlain.
- D. Exceptions are limited to water-dependent structures or uses, streambank or shoreline stabilization projects, invasive species control and/or removal, public recreation facilities and amenities, green stormwater infrastructure practices (GSI), road and trail crossings, and culverts.

#### **Section 5.36 Flood Hazard Areas**

- A. An application for development in flood hazard areas, as identified on the most current flood insurance maps (FIRM) published by FEMA, must include:
  1. A Project Review Sheet completed by a VT ANR Permit Specialist; and
  2. Floodway data on base flood elevations, certified by a registered professional engineer, for replacement or damaged structures and projects requiring elevation of dry-flood proofing above BFE.
- B. The following are exempt: Agricultural and silvicultural practices, and Subdivision of land.

#### **Section 5.37 Stormwater Management:**

- A. Stormwater runoff from impervious surfaces must be managed to minimize impacts on surface waters including wetlands. For development that requires a state stormwater permit, issuance of the appropriate state stormwater permit meets this requirement, and the applicant must submit a copy of the state permit prior to construction.
- B. For development that does not require a state stormwater permit, adherence with the "Vermont Guide to Stormwater Management for Homeowners and Small Businesses" meets this requirement.

#### **Section 5.38 Shoreland Protection**

All development along Lake Champlain shall comply with all applicable State Laws and Regulations. Applicants may be required to submit a Project Review Sheet completed by a Vermont Agency of Natural Resources Permit Specialist.

#### **Section 5.39 State and Federal Laws and Regulations**

All development shall comply with all applicable State and Federal Laws and Regulations

## **ARTICLE VI TRANSPORTATION, ACCESS, SAFETY AND PARKING.**

### **Section 6.1 Parking**

No parking of motor vehicles shall be allowed in setback areas. Commercial parking lots adjacent to residential uses shall be set back at least 50 feet from the property line and shall be screened so as not to cause a nuisance.

### **Section 6.2 Off-Street Parking Space Requirements**

For every building hereafter erected, altered, extended or changed in use, there shall be provided off-street parking spaces at least as set forth below. A required driveway shall be at least twenty feet clear in width, except for one-family and two-family uses.

- A. Residential Uses: One-family and two-family dwelling units: two parking spaces for every unit. Multiple-family dwelling units: Four parking spaces for every three units.
- B. Motor Lodge, Tourist Home: One space for every guest room.
- C. Residential Health Care Facility: One space for every two beds.
- D. Community Center: One parking space for every four seats, or every two hundred square feet of floor space, whichever is more.
- E. Professional Office: One parking space, plus one additional parking space for every two hundred square feet of floor space.
- F. Commercial, Business and Unspecified Uses: the number of parking spaces will be made in accordance with principles in the Vermont Green Streets Guide

### **Section 6.3 Access Permit**

Any activity for which a zoning permit is required and which involves the construction or modification of a driveway intersection with a public right-of-way shall obtain an access permit from the Board of Selectmen prior to the issuance of a zoning permit. The Selectmen may attach conditions to the access permit with respect to the design, construction, landscaping or location of such driveways in order to ensure safety, provide access by emergency vehicles and minimize traffic difficulties, specific standards may be set by the Board of Selectmen. State highways require an access permit from the Agency of Transportation.

### **Section 6.4 Obstruction of Vision**

On a corner lot, within the triangular area formed by the intersection of two roads and a line joining them at points twenty-five feet away from their intersection, there shall be no obstruction to vision between the height of three feet and ten feet above the average grade of each street.

## **ARTICLE VII SIGNS and FENCES**

### **Section 7.1 Signs-General**

- A. A permit shall be obtained from the ZA for the alteration, construction, or installation of any sign, other than an exempt sign, under these regulations. A permit shall be obtained for any change in the size, shape, lighting, materials, or location of an existing sign. No permit shall be required if only words or images on the sign are changed.
- B. An application for a new sign or for a change to an existing sign shall include a scaled drawing showing the lettering, sign dimensions, colors, materials, and method of illumination if any.
- C. Signs shall be erected, constructed, and maintained in a manner that does not obstruct traffic movement or visibility, or cause any hazard to public safety.
- D. Signs must be able to withstand a wind pressure load of at least 30 pounds per square feet.
- E. Signs must not prevent free access to any door, window or fire escape.
- F. Signs must not interfere with the architectural integrity of an historic site or structure.

### **Section 7.2 Exempt Signs**

The following types of signs may be erected and maintained without a permit:

- A. One sign, not more than 32 square feet in area, designating a farm.
- B. One on-premises sign, either freestanding or attached, in connection with any residential building, for permitted home occupations, not exceeding 3 square feet. Such a sign shall state the name and/or occupation only, and shall not be illuminated.

C. Temporary signs.

### **Section 7.3 Prohibited Signs**

- A. Signs with flashing, intermittent, rotating or moving lights.
- B. Signs containing or consisting of any moving, rotating, revolving or audible parts.

### **Section 7.4 Sign location, area and height.**

- A. Setback Requirement: The setback requirement of all proposed sign locations shall be at least 10 feet from the traveled portion of the road, and sufficient to comply with the requirements of 7.1C. If in the Town Right of Way the sign will need Selectboard approval.
- B. Signs on U.S. Route 7 and Route 22A shall comply with State Laws and Regulations.
- C. Signs in Residential, Village, Conservation and Shoreline Districts are permitted as follows:
  - 1. Home occupation sign between 3 and 6 square feet.
  - 2. Sign, not exceeding 20 square feet, identifying any non-residential building or use approved in the district.
- D. Signs in Commercial and Industrial Districts are permitted as follows:
  - 1. Signs up to a total of 50 square feet.
  - 2. Any sign proposal in excess of 50 Square feet shall require Conditional Use Review.
- E. Wall, Projecting, Ground and Roof Signs
  - 1. Wall signs shall not exceed the highest point of the building's roof.
  - 2. Ground signs shall not exceed eighteen feet in height above the finished grade.
  - 3. Projecting signs shall not extend more than four feet from the building wall, shall not extend beyond the street line, shall not exceed eighteen feet in height above finished grade and not be less than ten feet above the surface of a public walkway.
  - 4. Roof signs shall not exceed the highest point of the building's roof ridge.
- F. Computation of Area
 

When computing the total permissible sign area for any use:

  - 1. Existing signs shall be included.
  - 2. Signs consisting of freestanding letters, numerals or other devices shall include any intervening spaces between them.
  - 3. Only the larger faced area of a double-faced sign shall be used.

### **Section 7.5 Sign Illumination.**

- A. No illuminated sign or lighting device shall be placed or directed so that its light is directed or beamed towards a residence; upon a public street, highway, sidewalk or adjacent premises in a manner that causes glare or reflection sufficient to constitute a nuisance or traffic hazard; or towards the sky.
- B. Internally illuminated signs shall require Conditional Use Review.

### **Section 7.6 Fences – General**

- A. A permit shall be obtained from the ZA for the alteration, construction, or installation of any fence, other than an exempt fence, under these regulations.
- B. An application for a fence shall include a sketch plan indicating location, and an illustration of fence material proposed.

### **Section 7.7 Exempt Fences.**

The following fences do not require permits:

- A. Non-opaque fences (Fences you can see through).
- B. Fences less than four (4) feet in height.
- C. Agricultural Fences.

### **Section 7.8 Fences - Setbacks.**

Fences are not required to comply with setback regulations.

### **Section 7.9 Fences - Additional Requirements.**

- A. No fence may inhibit or divert natural drainage flow or cause blockage or damming of surface water.
- B. No fence may create a fire hazard or obstruct firefighting.
- C. No fence may interfere with visibility at a highway intersection or corner.
- D. A fence may not be constructed within a right of way of record without the express permission of the right of way owner.
- E. A fence that may obstruct or unreasonably impinge on the scenic view of an adjoining landowner shall receive site plan review.

## **ARTICLE VIII PERFORMANCE STANDARDS**

No land or building in any zoning district shall be used or occupied in any manner, nor shall a permit be issued, so as to create dangerous, injurious, noxious or otherwise objectionable conditions in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area of adjoining properties. The following specific standards are set forth to implement this purpose. The burden of proof that the following standards are met shall be on the applicant.

### **Section 8.1 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. Specifically, the sound pressure level should not exceed seventy decibels at the property line at any time, except for agricultural uses.

### **Section 8.2 Glare, Lights and Reflection**

No glare, lights or reflection shall be permitted which are a nuisance to other property owners or tenants or which could impair the vision of a driver of any motor vehicle or which are detrimental to public health, safety and welfare. However, reflections from solar energy collectors which are part of an operating solar energy system shall not be considered a nuisance to other property owners and tenants.

### **Section 8.3 Fire, Explosive and Safety**

No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities.

## **ARTICLE IX PERMITS AND APPROVALS**

### **Section 9.1 State Limitations**

- A. General: Pursuant to 24 V.S.A. §4413, the following uses may only be regulated with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-road parking, loading facilities, traffic noise, lighting, landscaping and screening requirements, and only to the extent that the regulations do not have the effect of interfering with the intended functional use:
  1. State or community owned and operated institutions and facilities;
  2. Public and private schools and other educational institutions certified by the state;
  3. Churches and other places of worship, convents and parish houses;
  4. Public and private hospitals;
  5. Regional solid waste management facilities certified by the state; and,
  6. Hazardous waste management facilities certified by the state.
- B. Agriculture and Forestry: Pursuant to 24 V.S.A. §4413, these regulations do not apply to accepted agricultural and silvicultural practices, including the construction of farm structures, as defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation.
  1. A farmer operator intending to build or extend a farm structure shall notify the Zoning Administrator (ZA), using a standard permit which shall be recorded in the Town Land Records.
  2. The permit application shall include a sketch of the proposed structure including setback distances from road and neighbors.

3. The farm structure shall abide by the setbacks specified in the land use regulations unless they provide a written approval of lesser setbacks by the Secretary of Agriculture, Food and Markets.
  4. The town may report violations of accepted agricultural or silvicultural practices to the appropriate state authorities for enforcement.
- C. Hunting: Pursuant to 24 V.S.A. §4413(e), these regulations shall not restrict hunting, fishing and trapping.
- D. Public Utility: Pursuant to 24 V.S.A. §4413(b), public utility facilities, including transmission as regulated under 30 V.S.A. §248, are exempt from permitting except as specified in 24 V.S.A. §4413(a).

### **Section 9.2 Application for a Zoning Permit**

- A. Any person desiring to undertake any activity requiring a zoning permit shall complete an application for a zoning permit and submit it to the ZA.
- B. The application shall include all of the following to be deemed complete:
1. Permit fee.
  2. Complete application identifying the applicant, the owner, the location of the tax parcel to be improved, parcel identification number, book and page number of the deed and a description of the proposed improvements and uses.
  3. A general site plan identifying the location of the parcel and the location of the improvement proposed in relationship to all lot lines, showing set back requirements, other structures on the parcel, driveways, parking areas and utilities.
  4. The general site plan shall show location of all streams and ponds on the parcel, and indicate if there may be Wetlands or if the parcel lies in a mapped Flood Hazard Area.
  5. A detailed site plan depicting dimensions of the structure, including height.
  6. Any sheet of the site plan shall not be more than 24 inches by 36 inches, drawn to scale, showing north.
  7. An access permit signed by the Selectboard, or its designated agent, regarding access and curb cuts, driveways, culverts and if required drainage along town roads or a written statement that a curb cut or access permit shall not be required for development.
  8. Identify other town, state or federal permits which may be required before construction of any proposed structure, including but not limited to wastewater treatment and potable water permits, wetlands permits, and stormwater permits.
  9. A statement as to whether or not Act 250 applies or may apply to the proposed development.

### **Section 9.3 Zoning Permit**

- A. Except as specifically exempted in these regulations or in the Act, no land development shall commence without a zoning permit issued by the Zoning Administrator (ZA) as provided in the Act.
- B. No zoning permit may be issued by the ZA or Administrative Officer (AO) except in conformance with these regulations, the provisions of the Act and the following:
1. Any development that requires the approval of an authorized municipal panel (AMP) until such approval has been obtained.
  2. Any development on a lot for which subdivision approval is required until such approval has been obtained and the plat has been properly recorded.
- C. The ZA shall not issue a permit or take action to submit it to an authorized municipal panel until the application is deemed complete. In order for an application to be deemed complete, the applicant shall submit a completed application form supplied by the ZA all fees, site plans, plat plans, and required supplementary information.
- D. The ZA will deliver a copy of the permit to the Listers and will post a copy of the permit at the Town Office within three days after issuing a permit. the permit must be posted for a period of 15 days from that date of issuance.
- E. The notice of a zoning permit must be posted on the property within view of the nearest public right-of-way for a period of 15 days from the date of issuance. The ZA will provide the applicant with a form for posting as prescribed by the town. The applicant is responsible for posting the notice and ensuring that it remains posted throughout the appeal period.

- F. All activities authorized by the issuance of a permit shall be substantially commenced within one year of the date of approval and completed within two years of the date of approval or the permit shall expire and the applicant shall need to re-apply before commencing activity. However, upon request of the applicant the ZA may renew a permit for a single, one-year period if the request is made while the permit is still valid and the circumstances under which the original permit was issued have not materially changed.
- G. The ZA may declare a zoning permit invalid upon finding that the application contained any misrepresentation or material inaccuracies.
- H. Within 30 days after submission of a complete application for a zoning permit , the ZA shall:
  - 1. Approve the permit with appropriate conditions; OR
  - 2. Deny the permit, stating the reasons therefore in writing and immediately mailing notice of such denial to the applicant at the address indicated on the application, OR
  - 3. Determine that the application requires action by the PC or ZBA, in which case the ZA shall evaluate the application for completeness and either return it to the applicant for more information or deem it complete and work with the applicant to schedule a hearing before the AMP.
- I. Failure by the ZA to take action on a permit application within 30 days of receiving an application that is deemed complete may result in the permit being deemed approved.
- J. Effect of Issuance of Zoning Permit
  - 1. No permit issued pursuant to this section shall take effect until the time for appeal in 24 V.S.A. §4465 has passed.
  - 2. In the event that a notice of appeal is properly filed, no permit shall take effect until adjudication of that appeal by the AMP is complete and the time for appeal to the Environmental Court has passed without an appeal being filed.
  - 3. If an appeal is made to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance with 10 V.S.A. §8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

#### **Section 9.4 Exemptions.**

- A. Permit Exemptions: The following enumerated activities shall not constitute land development for the purposes of requiring land owner(s) to obtain a permit under these Bylaws:
  - 1. A residential fence or wall less than four feet high or any landscaping which does not interfere with corner visibility at a highway intersection or corner.
  - 2. A residential terrace, patio, steps, handicapped ramp or deck smaller than 144 square feet at the ground level.
  - 3. A dog house, or child's play house or tree house or a shed or similar structure with a floor area of not more than 100 square feet and a height of not more than 10 feet and not attached to the ground or having a permanent foundation, may be located within any required yard, except the front yard, but not closer than 10 feet from any property line. Only one such structure per property shall be deemed exempt.
  - 4. A pond provided the pond does not affect drainage on other properties.
  - 5. Small above ground swimming pool.
  - 6. Routine repair and maintenance of a structure which does not change the use of the structure.  
For example: new siding, new roofing, door or window replacement and other similar work.
  - 7. Temporary Roadside Agricultural Stand.
- B. Setback Exemptions. The following enumerated structures shall be exempt from setback requirements:
  - 1. Boat Launches, Docks, Boat Hoists, Steps and any necessary structure to allow access to Lake Champlain.
  - 2. Fences.
  - 3. Signs.

#### **Section 9.5 Certificate of Compliance**

Upon request or as specified in these regulations, the ZA may issue a Certificate of Compliance stating whether a parcel of land has any outstanding violations or permits. the ZA shall review all pertinent

records on file in the Town Office and shall visit the property in question before issuing a Certificate of Compliance.

### **Section 9.6 Certificate of Occupancy**

No newly constructed residence, shall be occupied without a Certificate of Occupancy (CO) issued by the ZA.

Substantial alterations or additions to residential structures or uses, which require a municipal permit, may require a CO.

### **Section 9.7 Site Plan Review**

- A. Applicability. A pre-requisite of any use other than single family, or two-family residences or agriculture and forestry, may be required.
- B. The ZA shall not issue a permit for any use or structure that requires site plan review, or for expansion or enlargement or change in use of a use that requires site plan review until the PC or ZBA grants site plan approval. Uses requiring site plan review are specified in Article 4.
- C. The PC or ZBA shall make findings, hold hearings and may attach conditions, as provided for in 24 VSA Chapter 117, (24 VSA 4416) and all applicable sections of these regulations.
- D. Application for Site Plan Review. The applicant shall submit to the ZA at least 21 days prior to the regular meeting of the PC or ZBA a letter summarizing the proposed project which addresses all elements of this article, and all other information necessary to illustrate compliance with these regulations and for the PC or ZBA to make its decision, including property identification numbers of property taken from the latest tax records; name and address of the owner of record and those of adjoining lands; name and address of person or firm preparing the map; scale of map; north point and date. Applicant shall submit copies of all other required permits including state and federal permits, wastewater, potable water and access permits.
- E. The PC or ZBA may also require the following:
  1. An accurate map or survey of the property showing existing features, including ground elevation contours, Wetlands, Flood Hazard Areas, streams, structures, decks, large trees, easements, location of water supply sources, wastewater treatment and disposal areas, rights of way, land use restrictions, and deed restrictions.
  2. A scaled site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscape plans including site grading, curb cuts, landscape design and screening, wastewater treatment, signs, outdoor lighting, equipment and storage areas, buffer strips, and setback areas.
  3. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development, which may be updated by written approval of the PC or ZBA .
  4. A description of energy utilization and conservation measures for each heated structure.
  5. A Soil Erosion and Sediment Control Plan where the proposed use or structure or activity may result in site disturbance.
  6. A Stormwater Management Plan
  7. Other information pertinent to the issue before the PC or ZBA.

### **F. Review Criteria and Standards**

The PC or ZBA shall review site plans for the following and may impose conditions as it deems necessary to achieve the purposes of these regulations and the Ferrisburgh Town Plan:

1. Traffic Circulation and Access. The number and size of curb cuts shall meet the standards set forth in Section XXX . In appropriate instances, the PC may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road.
2. Pedestrian Access. The PC or ZBA may require pedestrian circulation within the site and along public roads. Such access may take the form of sidewalks or paths. In addition, adequate access from any parking areas and sidewalks to the building(s) that are open to the public shall be provided for people with disabilities.
3. Parking and Service Areas. Parking and service areas shall be provided in accordance with these

- bylaws. Nonresidential parking and service areas shall be located to the side or rear of buildings, unless otherwise approved by the PC or ZBA due to existing site limitations.
4. Building Design. The PC or ZBA may impose conditions with regard to siting, density, setbacks, height, massing, materials and orientation to ensure that the proposed design and location of structures shall be compatible with their proposed setting and context; existing site conditions and features; and adjoining structures and uses.
  5. Historic Structures. The PC or ZBA may require conditions to preserve existing historic structures and to renovate and reuse them, while retaining their historic character and any significant architectural features. Renovations and re-use may include adaptive renovations, but the burden shall be on the applicant to demonstrate why any significant features (including windows, roofing, cornices, doors, siding) are being concealed or eliminated.
  6. Energy Conservation. Applicants shall demonstrate that reasonable energy conservation measures will be taken and that the project meets all applicable state requirements for energy efficiency.
  7. Outdoor Storage and Display. The PC or ZBA may limit or prohibit outdoor storage or display of goods, supplies, vehicles, equipment, machinery or other materials. Secured, covered areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving outdoor display or storage, the PC or ZBA may place conditions on the area and location of such storage or display, and may require appropriate screening.
  8. Landscaping and Screening. Proposed landscaping and screening shall be designed to preserve existing vegetation and enhance unique landscape features; be suited to existing site conditions and be integrated with adjacent properties; screen parking areas from view.
  9. Exterior Lighting. Proposed lighting shall be designed to minimize impact on neighboring properties.
  10. Hours of Operation. The PC or ZBA may limit the hours of operation. Hours of operation are generally expected to not begin earlier than 7:00 a.m. and end by 11:00 p.m. The burden will be on the applicant to demonstrate why longer hours should be allowed.

### **Section 9.8 Conditional Use Review**

Conditional Use review must also satisfy Site Plan Review.

- A. In any district, a conditional use may be permitted, expanded or altered only upon approval of the ZBA, after public notice and public hearing and after its determination that the proposed use will conform to the standards specified in these bylaws.
 

The ZBA shall review the proposed use for compliance with all applicable standards as contained in these regulations. This review shall specifically include consideration of the stated purpose of the district in which the proposed use is to be located. In granting such conditional use, the board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of these bylaws and the Act.
- B. General Standards: The ZBA shall determine that the proposed conditional use shall not result in an undue adverse effect on any of the following:
  1. The capacity of existing or planned community facilities.
  2. The character of area affected as defined by the purposes of the zoning district within which the project is located and specifically stated policies and standards of the Town Plan.
  3. Traffic on the roads and highways in the vicinity.
  4. The Town Plan, regulations, bylaws or ordinances in effect.
  5. Utilization of renewable energy resources.
  6. The appropriate use or development of adjacent property.
- C. Application for Conditional Use Review
  1. The applicant shall submit to the ZA, at least 21 days prior to the regular meeting of the ZBA, a letter summarizing the proposed conditional use which addresses all elements of this section, and all other information necessary to illustrate compliance with these regulations and for the ZBA to make its decision, including property identification numbers of property taken from the latest tax records; name and address of the owner of record and those of adjoining lands; name and address of person or firm preparing the map; scale of map; north point and date.

2. The ZBA may also require the following:
  - a) An accurate map or survey of the property showing existing features, Wetlands, Flood Hazard Areas, structures, decks, large trees, utility easements, location of sources of potable water, wastewater treatment, rights of way, land use restrictions, and deed restrictions.
  - b) A scaled site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks, site grading, curb cuts, landscape design and screening.
  - c) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
  - d) A description of energy utilization and conservation measures for each heated structure
  - e) Copies of all other required permits including state and federal permits, wastewater, potable water and access permits, stormwater permits if required.
  - f) Other information pertinent to the issue before the ZBA.
- D. Specific Standards: In permitting a conditional use, the ZBA may impose, in addition to the standards expressly specified by these regulations, other conditions found necessary to protect the best interests of the surrounding property, the neighborhood or the town as a whole. These conditions may include among others:
  1. Minimum lot size.
  2. Distance from adjacent or nearby uses, limiting the coverage or height of buildings because of obstruction to views, vistas, natural areas, wildlife habitat, productive woodlands, historic sites and agricultural land.
  3. Obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot; or other form of air pollution, heat, cold, dampness, electromagnetic or other disturbance, glare, liquid or solid refuse or waste; or create any dangerous, injurious, noxious, fire, explosive or other hazard.
  4. Minimum off-street parking and loading facilities.
  5. Landscaping and fencing.
  6. Design and location of structures and service areas.
  7. Size, location and design of signs as specified in these regulations.
- E. Other Conditional Uses: For development in any district, an applicant may propose a conditional use similar to, but not specifically listed in the Conditional Uses for that Zoning District.
- F. The ZBA may impose a performance bond on the applicant in order to assure the proper development of the conditional use according to the restrictions and conditions specified by the ZBA.

### **Section 9.9 Nonconformities**

- A. A lawfully developed nonconforming lot:
  1. May continue in its current use and configuration.
  2. May, after receiving a permit from the ZA, have any structure located on it repaired, maintained, structurally enlarged, expanded or moved if such a structure meets the district standards for the district in which it is located.
  3. May, after receiving a permit from the ZA, have a new structure built upon it if such a structure meets the district standards for the district in which it is located.
- B. A nonconforming structure:
  1. May undergo normal repair and maintenance without a permit if such action does not increase the structure's degree of nonconformity as defined in Article II, Section 2.2 of these regulations.
  2. May, after receiving a permit from the ZA, be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of nonconformity that existed prior to the damage, and provided that the reconstruction commences within 2 years and is completed within 4 years of the date the damage occurred.
  3. May be structurally enlarged, expanded or moved, after receiving a permit from the ZA, provided that the degree of nonconformity is not increased.
  4. May, subject to conditional use approval by the ZBA, be structurally altered or expanded in a manner that would increase the degree of nonconformity for the sole purpose of meeting mandated state or federal environmental, health, accessibility, safety or energy regulations that would allow for

the continued use of the structure.

C. A nonconforming use:

1. Shall not be moved from one lot to another where it is also a nonconforming use.
2. Shall not be re-established if the use has been changed to or replaced by a conforming use for a period greater than two years. Intent to resume a non-conforming use shall not confer the right to do so.
3. Shall not be re-established if the use has been discontinued for a period greater than one year. Subject to condition use approval and finding that reasonable effort is being made to reinstate the use, the ZBA may allow a nonconforming use in a structure that was damaged by any cause to be discontinued for two additional years. A non-conforming use may be re-instated in part of a structure damaged by any cause for a period of up to three years if the use had continued to be carried out in an undamaged portion of the structure.
4. Shall not be converted to another nonconforming use without conditional use approval. The ZBA shall only allow the use to be converted to another nonconforming use that, in its opinion, is the same or of a more conforming nature than the present nonconforming use, and which does not have an undue adverse impact on the character of the area or neighborhood.
5. May not increase the degree of nonconformity except with the approval of the ZBA subject to conditional use approval.

### **Section 9.10 Variances**

A variance may be requested by an applicant who has been denied a permit by the ZA, and the applicant is proposing a project that would require deviating from the provisions of these regulations.

An applicant may not request a variance for a project which is primarily a renewable energy resource structure.

The ZBA may grant such variance after public hearing, only if all of the following facts are found affirmatively and these findings are specified in its decision (see 24 VSA 4469).

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulations in the neighborhood or district in which the property is located.
- B. That because of such physical circumstances or 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 therefore necessary to enable the reasonable use of the property.
- C. That such unnecessary hardship has not been created by the appellant.
- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

### **Section 9.11 Waivers**

- A. Applicability: The PC or ZBA may grant applicants waivers to reduce dimensional requirements as authorized by 24 V.S.A. §4414(8) and as specified in these regulations.

Waivers shall not be granted to allow a use that is not permitted or conditional in the district in which the subject property is located.

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

- B. Application Procedure. The steps to be taken to file and review a request for a waiver are the same as those for a variance, with the addition of the following:
  1. The applicant's request for a waiver shall include a brief response to each of the criteria listed in Paragraph D, as applicable.
  2. The AMP shall make its decision on the request for a waiver by applying the facts presented in the

application and at its hearing to the criteria listed below. All criteria shall be met for the AMP to grant a waiver. The AMP shall respond to each condition in its written findings of fact.

3. The applicant shall submit to the ZA at least 21 days prior to the regular meeting of the AMP one original and three copies of all submissions.
- C. Conditions for Waiver. In granting a waiver, the AMP may impose conditions on the waiver. The nature of any waiver and any condition attached to it shall be entered on the face of the zoning permit or subdivision approval, incorporated therein and shall be enforceable in the same manner as any other applicable requirements of these regulations.
- D. Criteria for Waiver of Dimensional Standards. The AMP may grant waivers to reduce dimensional requirements if the applicant can satisfy all of the following standards:
  1. The waiver is for a use allowed within the district in question;
  2. The waiver requested is in conformance with the Ferrisburgh Town Plan and the goals set forth in 24 V.S.A. Chapter 117.
  3. The waiver requested is designed to conform to the character of the land use area in which the property is located as defined in the Ferrisburgh Town Plan and further designed to reasonably limit impact or the potential for impact upon neighbors.
  4. The waiver being requested is a reasonable.

## **ARTICLE X ADMINISTRATION AND ENFORCEMENT**

### **Section 10.1 Zoning Administrator**

A Zoning Administrator (ZA) shall be nominated, for a term of three years, by the Planning Commission with the approval of the Board of Selectmen, as provided for in Section 4448 of the Act.

- A. The ZA shall administer the Land Use Regulations literally, and shall not have the power to permit any land development which is not in conformance with these regulations.
- B. The ZA is subject to any personnel policies legally adopted by the town. After consultation with the PC, the Selectboard may remove the ZA at any time for cause.
- C. The ZA shall enforce the provisions of these regulations and in doing so shall inspect developments, maintain records and perform all the following duties:
  1. Issue Permits: Issue permits for developments that conform to these regulations, and certificates of occupancy for developments that conform to their permit, and other duties associated with the issuance of permits as described in 24 V.S.A. §4449.
  2. Assist Applicants: Provide necessary forms, answer questions about the application review process, direct applicants to other permits such as state or federal permits, wastewater permits, wetlands determinations, access permits, which may be needed for their proposed development.
  3. Make Inspections: Inspect structures or land in order to carry out enforcement of these regulations.
  4. Notify state agencies of development in the municipality according to 24 V.S.A. §4424 relating to flood hazards.
  5. Maintain records of all applications for permits and Certificates of Occupancy issued or refused with notations thereon of all special conditions involved.
  6. File copies of all plans submitted to the ZA and keep records of all actions taken pursuant to these regulations.
  7. Forward completed applications to the appropriate municipal panel (AMP) as necessary and required.
  8. Post and mail notices of public hearing and decisions for all permits as detailed in these regulations.
  9. Initiate enforcement actions under these regulations.
  10. Other Duties: Carry out other duties as apparent or as assigned by the PC
- D. The ZA will provide applicants with all town forms required to obtain permits or approvals under these regulations and assist applicants in navigating the town's regulatory process. The ZA will inform applicants applying for town permits or approvals to contact the state's regional permit specialist in order to assure timely action on any related state permits. However, it remains the applicant's responsibility to identify, apply for and obtain the necessary state permits.
- E. Because decisions and actions of the ZA are appealed to the ZBA, the ZA shall not serve as clerk, take Minutes or draft Decisions for the ZBA as they relate to appeals.

- F. Deeming Applications Complete: The ZA shall receive all applications for development review and appeals, except for appeals of a decision or act of the ZA, and review them for completeness as specified below:
1. The applicant shall submit to the ZA at least 21 days prior to the regular meeting of the AMP one original and at least three copies of those materials required by the provisions of these regulations or any application forms approved by the AMP for the type of action requested.
  2. The ZA shall make a written determination as to whether the application appears to be complete. An obviously incomplete application shall be returned to the applicant with a request for further information.
  3. The ZA shall not schedule a public hearing on an application until the ZA has determined that the application is complete.
- G. The PC may nominate and the Selectboard may appoint an acting ZA who shall have the same duties and responsibilities as the ZA in the ZA's absence or when the ZA has a conflict of interest.

### **Section 10.2 Appropriate Municipal Panels**

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

### **Section 10.3 Planning Commission**

- A. The Town of Ferrisburgh PC will have members appointed by the Selectboard for three-year terms. The Selectboard shall fill vacancies on the PC by appointment for the expired term. The Selectboard, upon written charges, may remove any member of the PC for just cause.
- B. Functions. The PC has the following functions:
1. Prepare and update the Town Plan every eight (8) years (24 VSA 4387).
  2. Prepare and amend these regulations, and any bylaws, permitted under the Act.
  3. Resolve disputes regarding interpretation of district boundaries on the Official Zoning Map.
  4. Nominate a Zoning Administrator
- (ZA).
5. Serves as the appropriate municipal panel to:
    - a). Hear and grant or deny approval for planned unit development applications.

- b). Hear and grant or deny approval for subdivision applications.
  - c). Review requests for rights-of-way or other changes requested to plats of record.
  - d). Hear and grant or deny requests for boundary adjustments.
  - e). Hear and grant or deny requests for waivers associated with planned unit developments or subdivision applications.
- 6. Undertake capacity studies.
  - 7. Undertake site plan review
  - 8. Perform other such functions as dictated in 24 V.S.A. §4325 and as it deems necessary and appropriate to fulfill its duties and obligations.

#### **Section 10.4 Zoning Board of Adjustment**

- A. The Town of Ferrisburgh Zoning Board of Adjustment (ZBA) will consist of members to be appointed by the Selectboard for three-year terms. the Selectboard shall fill vacancies on the ZBA by appointment for the expired term. The Selectboard, upon written charges, may remove any member of the ZBA for just cause.
- B. Functions: The ZBA has the following functions:
  - 1. Hear and grant or deny appeals of the actions or decisions of the ZA.
  - 2. Hear and grant or deny requests for variances.
  - 3. Hear and grant or deny requests for waivers, except those associated with PUD or subdivision applications.
  - 4. Hear and approve Site Plan Review
  - 5. Hear and grant or deny conditional use approvals.
  - 6. Any other form of land use regulation for which the ZBA is the appropriate municipal panel as authorized by these regulations.

#### **Section 10.5 Appeals of Zoning Administrator 's (ZA) Actions or Decisions**

Pursuant to Section 4465 of the Vermont Planning and Development Act, an interested person may appeal actions and decisions of the ZA to the ZBA, which shall conduct hearings on appeals.

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

### **Section 10.6 Fees**

The Selectboard shall, by resolution, establish a schedule of fees and related policies to cover all or a portion of the town's cost of administration and enforcement. The validity of any permit shall be contingent upon payment of such fees in accordance with the fee schedule and policy.

Upon submission of an application, the ZBA may determine that it needs the assistance of an independent consultant or consultants to evaluate the application. Upon making such a determination, it may hire independent consultants, the reasonable costs of whose services shall be paid for by the applicant. Upon such determination, the applicant shall place in escrow sufficient funds to cover such costs, as estimated by said independent consultant. These consultants shall be qualified professionals with an appropriate combination of training, record of service and/or certification in the related field.

### **Section 10.7 Enforcement and Penalties**

Violations of these regulations shall be enforced in accordance with Section 4451 and Section 4452 of the Act, as may be amended from time to time.

## **ARTICLE XI PLANNED UNIT DEVELOPMENT (PUD)**

### **Section 11.1 Purpose**

- A. To encourage compact development or re-development to preserve and maintain agricultural land, forests and open space and protect natural, cultural and scenic resources as identified in the Town Plan.
- B. To encourage compact, village-scale mixed use development within or adjacent to historic village and city centers.
- C. To provide opportunities for a diversity of housing types, and promote housing which is both affordable and energy efficient.
- D. To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, pedestrian oriented development, and related site and design considerations that will best achieve the goals for the area as articulated in the Ferrisburgh Town Plan and Regulations.

### **Section 11.2 Modification of District Standards**

To achieve the objectives set forth in this section the PC may modify applicable area and dimensional requirements in the Land Use Regulations simultaneously with approval of a subdivision plat. PUD's as authorized may deviate from the requirements of these regulations that are otherwise applicable to the area in which it is located with respect to lot size, size or type of building, uses, density, intensity, lot coverage, parking, required common space, or other standards.

### **Section 11.3 Applicability**

PUD provisions may be applied, at the request of the applicant to any sized parcel.

### **Section 11.4 Application Procedures**

- A. Application for a PUD shall be submitted following procedures under Subdivision Regulations for a major Subdivision, and shall be subject to a site plan review which may occur concurrently with Subdivision Review.
- B. Upon approval of the PUD all approved modifications of these regulations shall be specifically set forth in terms of standards and criteria for the design, bulk and spacing of buildings and sizes of lots and open spaces which shall be required, and these shall be noted on or appended to the plat.
- C. All other provisions of these regulations not specifically modified shall remain in force and be applicable to the project.

### **Section 11.5 Application Requirements**

In addition to the material requested in the Subdivision Regulations applications for a PUD shall include the following:

1. A statement from the applicant setting forth all the proposed modifications or changes of existing

regulations, standards, criteria, and all development which may vary the density or intensity of land use otherwise applicable under the provisions of these Land Use Regulations.

2. The amount, location and proposed use of open space, and proposed agreements that will ensure the perpetual nature of any open space, or common land, or conserved land through the PUD.
3. Where there are multiple owners or multiple properties involved in developing the PUD the application shall be consolidated into one application, with approval of all owners, and treated as a single application binding all owners and properties.
4. The applicant may request, or the PC may require, that the PUD be developed in reasonable phases in accordance with the Town Plan
5. Any other supporting information that the PC deems necessary to determine whether the proposed PUD meets applicable standards.

#### **Section 11.6 PUD's involving Two or more parcels.**

Two or more parcels, whether contiguous or not, may be combined in to a single application for a PUD.

#### **Section 11.7 Conformance with Town Plan**

At the time of PUD approval the PC shall include in its decision a finding that the PUD conforms to the Ferrisburgh Town Plan, as well as a clear statement of all approved modifications of development standards.

#### **Section 11.8 Combined Review**

Applications for a PUD shall be reviewed under major subdivision review. The application may require conditional use review and/or site plan review. If conditional use review is required the PC and ZBA may hold joint hearings. (See also Concurrent Review Section 10.2D.)

#### **Section 11.9 Conservation of Open, Common, or Public Land**

The PUD applicant shall make provisions for protection in perpetuity for maintenance of any common facility or open space. This may be through a designated organization or trust, or through offsite mitigation or conservation easement or other mechanism.

#### **Section 11.10 Phasing Development**

The applicant may propose to phase development of the PUD, and the PC may require phasing.

#### **Section 11.11 Amendment to approved PUD**

Any change to an approved PUD shall require amendment to the prior approval in accordance with Subdivision Regulations.

#### **Section 11.13 Performance Bond**

The PC may impose a performance bond on the applicant in order to assure compliance with all conditions and modified standards.

## **ARTICLE XII SUBDIVISION**

#### **Section 12.1 Subdivision Application**

Whenever any subdivision of land is proposed to be made, before any contract for sale of such subdivision or any part thereof is made, before any grading, clearing, construction or other improvement is undertaken, or before any permit for erection of a structure in such proposed subdivision is granted, the subdivider shall apply in writing to the PC for and secure approval of the proposed subdivision.

#### **Section 12.2 Submission of Sketch Plan**

- A. General: Any owner of land shall, prior to submitting an application for subdivision of land, submit to the ZA at least 15 days prior to the regular meeting of the PC, an application for sketch plan review and two copies of a Sketch Plan of the proposed subdivision. The sketch plan shall

show the proposed layout of streets, lots and other features on a tax parcel map or equivalent, including property lines, minimum size of 11 by 17 inches, as well as a vicinity map showing the general location of the property in relationship to the surrounding area.

- B. The subdivider, or their duly authorized representative, shall attend the meeting of the PC to discuss the requirements of these regulations for street improvements, drainage, sewage, water supply, fire protection, and similar aspects as well as the availability of existing services and other pertinent information. At this meeting the PC will classify the Sketch Plan into either 1) Minor Subdivision (2 – 4 parcels) ; or 2) Major Subdivision (5 or more parcels).
- C. The PC shall study the Sketch Plan to determine whether or not it conforms to, or would be in conflict with any of the following: the Town Plan; the Zoning Regulations; the Official Map; development proposed by any public agency; existing private and public development, facilities and services; and for any special problems that may be encountered. The Commission shall determine whether the Sketch Plan meets the purposes of these Regulations and may make specific written recommendations for changes.
- D. Where the subdivider submits a proposal for a Planned Unit Development, requirements of section 4417 of the Act shall be met, in addition to the requirements of these Bylaws.

### **Section 12.3 Procedures for Minor Subdivisions**

- A. The Commission may require where necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or some of the requirements specified for Major Subdivisions.
- B. Within six months of classification by the PC of the Sketch Plan as a Minor Subdivision, the subdivider shall submit an application for approval of a Final subdivision plat according to the procedures and requirements of these Bylaws.

### **Section 12.4 Procedure for Major Subdivisions**

- A. Within six months after classification of the Sketch Plan as a Major Subdivision by the PC, the subdivider shall submit an application for approval of a Preliminary Plat according to the procedure and requirements of these Bylaws. The plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the PC.

### **Section 12.5 Submission Requirements for Preliminary Plat**

- A. The Preliminary Subdivision Plat shall consist of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of not more than one hundred (100) feet to the inch, of sixty (60) feet to the inch where lots have less than one hundred (100) feet frontage, showing or accompanied by the following information;
  1. Proposed subdivision name or identifying title and the name of the municipality accompanied by a vicinity map of appropriate scale;
  2. Name and address of record owner, subdivider and designer of Preliminary Plat;
  3. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, watercourses, wetlands, floodplains, forests, and other existing physical and natural features;
  4. The names of all subdivisions immediately adjacent and the names of owners or record of adjacent acreage;
  5. The provisions of the Zoning Regulations applicable to the area to be subdivided and any zoning district boundaries affecting the tract;
  6. The location and size of any existing sewers and water mains, culverts and drains on the property to be subdivided;
  7. Location, names and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces as well as similar facts regarding adjacent property;
  8. The width and location of any streets or other public ways or places shown upon the Official Map, if any, and the comprehensive Development Plan, if applicable, within the area to be subdivided, and the width, location, grades, and street profiles of all streets or other public ways proposed by the subdivider;

9. Contour lines at intervals of five (5) feet of existing grades and of proposed finished grades where change of existing ground elevation will be five (5) feet or more;
10. Typical cross sections of the proposed grading and roadways and of sidewalks;
11. Date, true north point and scale;
12. Deed description and map of survey of tract boundary made and certified by a licensed land surveyor tied into established reference points;
13. Connection with existing water supply or alternative means of providing water supply to the proposed subdivision;
14. Connection with existing sewage disposal system or proposed alternative means or treatment and disposal;
15. If private sewage disposal system is proposed, applicant will provide a letter from a certified site technician or engineer that preliminary soil testing has been done and capacity demonstrated.
16. Provisions and plan for collecting and discharging storm drainage;
17. Preliminary designs of any bridges or culverts which may be required;
18. Proposed lot lines with approximate dimensions and suggested locations of buildings;
19. The location of temporary markers adequate to enable the Commission to locate readily and appraise the basic layout in the field. Unless an existing street intersection is shown, the distance along a street from one corner of the property to the nearest existing street intersection shall be shown;
20. All parcels of land proposed to be dedicated to public use and the conditions of such dedication;
21. The location of tree line and all natural features or site elements to be preserved.

### **Section 12.6 Review and Approval of Preliminary Plat**

- A. Application: The subdivider shall file an application for consideration of a Preliminary Plat on the proposed subdivision using the approved application form.
- B. Official Submission Date: The time of submission of the Preliminary Plat shall be the next regular monthly meeting of the PC following the receipt of the application.
- C. The subdivider, or their duly authorized representative, shall attend the meeting of the PC to discuss the Preliminary Plat.
- D. Preliminary Plat: The PC shall study the practicability of the Preliminary Plat. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, the natural resources features, lot sizes and arrangement, the future development of adjoining lands as yet un-subdivided, and the requirements of the Town Plan, the Official Map, Zoning Bylaws.
- E. Preliminary Approval of Preliminary Plat: Within forty-five (45) days after formal submission of a Preliminary Plat, the PC shall take action to approve, with or without modifications, or disapprove such Preliminary Plat. The ground of any modification required or the ground for disapproval shall be clearly stated in the findings of fact and conclusions of the PC. Failure of the PC to act within such forty-five (45) day period shall constitute a preliminary approval of the Preliminary Plat. Prior to preliminary approval the PC may hold a preliminary hearing after public notice according to the Act.
- F. When granting preliminary approval to a Preliminary Plat, the PC shall state the conditions of such approval, if any, with respect to :
  1. the specific changes which it will require in the Preliminary Plat;
  2. the character and extent of the required improvements for which waivers may have been requested;
  3. the amount of improvements or the amount of all bonds therefore which it will require a prerequisite to the approval of the Subdivision Plat. The action of the PC and any conditions attached thereto shall be noted on three (3) copies of the Preliminary Plat. One copy shall be returned to the subdivider, one retained by the PC and one forwarded to the legislative body.
- G. Preliminary approval of a Preliminary Plat shall not constitute approval of the Subdivision Plat, Prior to approval of the final Subdivision Plat, the PC may require additional changes as a result of further study.

### **Section 12.7 Review and Approval of Final Plat for both Major and Minor Subdivisions.**

- A. Application: The subdivider shall file an application for consideration of a Final Plat of the proposed subdivision, using the approved application form available from the Clerk of the PC. If the final

application is not submitted within six (6) months after the preliminary approval of the Preliminary Plat for Major Subdivision, the PC may refuse without prejudice to act on the Final Plat and require resubmission of the Preliminary Plat. If the final application for a Minor Subdivision is not submitted within six months of classification by the PC of the sketch Plan as a Minor subdivision, the PC may refuse without prejudice to act on the Final Plat and require resubmission of the Sketch Plan.

- B. One copy of the Plat, a copy of the application, drafts of any easements, covenants and agreements, shall be submitted at least 28 days prior to a regular monthly meeting of the PC.
- C. Official Submission Date: The time of submission of the Final Plat shall be the next regular monthly meeting of the PC following receipt of the application.
- D. Public Hearing: A public hearing upon public notice according to the Act shall be held by the PC within thirty (30) days after the official submission of the Final Plat for approval. In addition, notice of such hearing shall be forwarded to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary at least 15 days prior to the hearing.
- E. Action on Proposed Final Plat: The PC shall, within forty-five (45) days from the public hearing, approve, modify and approve or disapprove the subdivision plat. Failure to act within such forty-five (45) days shall be deemed approval. However, if approved, the Final Plat shall not be signed by the authorized officers of the PC for recording until the subdivider has complied with the provisions of these bylaws.
- F. Performance Bond:
  1. All required improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the PC. The PC may require that all such improvements be completed prior to the issuance of a zoning permit or certificate of occupancy for subsequent development on approved lots. A performance bond or comparable surety for completion of public improvements acceptable to the Selectboard may be required to ensure that all improvements that are to be taken over by the Town are completed to specification.
  2. In accordance with the Act, for any subdivision which requires the construction of roads or other public improvements, the PC may require that the applicant post a performance bond or comparable surety to cover the cost and to ensure completion of specified improvements, and their maintenance for two years following completion, in accordance with the conditions of approval. Such bond or surety must be approved by the Selectboard prior to final plan approval. The term of the bond or surety may be fixed by the Selectboard.

### **Section 12.8 Filing of Approved Subdivision Plat**

- A. Final approval and Filing: Upon completion of the requirements of these bylaws and notation to that effect on the subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the PC (Chairman or Acting Chairman) and filed with the Town Clerk. Any Subdivision Plat not so filed or recorded within 180 days of the date on which such Plat is approved or considered approved by reasons of the failure of the PC to act, shall become null and void.
- B. Filing of Phases/Sections of Subdivisions: At the time the PC grants final Plat approval, it may permit the Plat to be divided into two or more sections subject to any conditions the PC deems necessary in order to ensure the orderly development of the Plat.
- C. Plat Void if Revised After Approval: No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Commission and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the PC and such PC approves any modifications.

### **Section 12.9 Public Acceptance of Streets, Recreation Areas**

Approval of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, utilities, park, recreational area, or other open space shown on such Subdivision Plat.

The Commission may require the filing of a written agreement between the applicant and the legislative body covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such improvements.

### **Section 12.10 Final Plat**

The Final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements: It shall be on mylar, clearly and legibly drawn, and the size of the sheets shall be either 18 X 24 inches or a multiple thereof. Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and one (1) inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies. The Subdivision Plat shall show:

- A. Proposed subdivision name or identifying title, the name of the Municipality, the name and address of the record owner and subdivider, the name, license number and seal of the licensed land surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks and scale, date and true north point.
- B. Street names and lines, pedestrian ways, lots, reservations, easements and area to be dedicated to public use.
- C. Sufficient data acceptable to the Commission to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where practicable these should be tied to reference points previously established by a public authority.
- D. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.
- E. By proper designation on such Plat, all public open space for which easements, covenants or agreements have been proposed by the subdivider and those spaces title to which is reserved by subdivider.
- F. Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.
- G. Permanent reference monuments shown thus "X".
- H. All lot corner markers shown thus: "O". They shall be of metal of at least three-quarters (3/4) inch in diameter and at least twenty-four (24) inches in length, and located in the ground to existing grade.
- I. Monuments which shall be set at all corners and angle points of the boundaries of the subdivision, and monuments required by Municipal specifications of new roads, at all street intersections, angle points in street lines, points of curve and such intermediate points in street lines, points of curve and such intermediate points as shall be required by the engineer.
- J. There shall be submitted to the Commission with the Final Subdivision Plat:
  1. Written offers of easements, covenants or agreements to the Municipality of all streets, public open spaces, sewage and water systems to be connected to municipal facility, and other areas to be dedicated to the public shown on the Plat, and copies of agreements or other documents showing the manner in which areas and facilities, title to which is reserved by the subdivider, are to be maintained.
  2. Written evidence that the legislative body is satisfied with the legal sufficiency of the documents referred to in Paragraph 1, above. Such written evidence shall not constitute an acceptance by the Municipality of any streets, public open spaces, sewer and water connections to municipal facilities, and other areas to be dedicated to the public referred to in Paragraph (1), above.
  3. A certificate of the Municipal Engineer or Consulting Engineer registered in the State of Vermont, as to the completion of all improvements required by the PC to the satisfaction of the Engineer.

### **Section 12.11: Planning Standards**

- A. Character of the Land: All land to be subdivided shall be, in the judgement of the PC, of such a character that it can be used for building purposes without danger to public health or safety, or to the environment. For example, land subject to periodic flooding, has poor drainage, or has other hazardous conditions, shall not ordinarily be subdivided.
- B. Energy Conservation: In order to conserve energy, all subdivisions shall use the least areas of roadway and the least length of sewer, water, and utility lines within environmentally and economically sound limits. All subdivisions shall be designed so as to take advantage of southeast, south and southwest orientations where possible and so that the maximum number of buildings shall receive sunlight sufficient for using solar energy systems for space and water heating. Landscaping should be effectively used for providing wind barriers and reducing heat loss and heat gain. Cluster

development (planned unit development) should be encouraged wherever feasible and desirable.

- C. Reserved Strips: No privately owned reserved strip, except on open space areas shall be permitted which controls 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, or which may be so dedicated.
- D. Preservation of Existing Features: Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, and other natural resources, and historic resources.

#### **Section 12.12: Streets**

- A. Topography: Streets shall be related to the topography so as to produce reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets.
- B. All new streets shall comply with the Town Highway Specifications (or standards)
- C. Street Names: Streets shall be identified by name on the preliminary plat. Proposed streets which are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the names for proposed streets duplicate existing names, irrespective of the suffix, be it street, avenue, boulevard, driveway, place or court.
- D. The PC may require the subdivider to improve any access road where it intersects with new streets or driveways in the subdivision to facilitate traffic circulation and pedestrian and vehicular safety.
- E. Curbs and Sidewalks: Curbs and sidewalks may be required in zoning districts where deemed necessary by the PC.

#### **Section 12.13: Pedestrian Access**

Where necessary, in the judgement of the PC, rights-of-way for pedestrian travel and access, including sidewalks and footpaths, may be required to facilitate pedestrian circulation within the subdivision and to provide access to public property.

#### **Section 12.14: Utilities**

- A. Easements: The Commission may require that underground utilities be placed either in the street right-of-way between the paved roadway and street line or placed horizontally underneath the roadway. Where inclusion of utilities in the street right-of-way is impractical, perpetual, unobstructed easements twenty (20) feet in width shall be provided with satisfactory access to the street.
- B. Extension of Municipal Utilities: All subdivisions shall make adequate provisions for water supply, storm water and sanitary sewage disposal, and required utilities and improvements. The PC may require the extension of public water supply and sewers to and within a proposed subdivision, without cost to the municipality where existing lines are, in the judgement of the PC, within a reasonable distance of the proposed subdivision.
- C. Connections to Municipal Utilities: Where municipal sewer is available, the subdivider shall install laterals from all utilities to the street property line of each building lot.
- D. Depth of Utility Mains: Water and sewer mains must be laid below the depth of frost penetration of the area. Sewer lines shall be set lower than water mains.
- E. Water Supply Improvements: For subdivisions which will have individual water suppliers, the subdivider shall provide evidence of the location and availability of potable water and in adequate quantities.
- F. Sewage Disposal Improvements shall meet all applicable state statutes and regulations.
  1. For subdivisions which will connect to a municipal sewage disposal system, applications for extensions shall be approved by the officers and agents of a municipality entrusted with the care and superintendence of a municipal sewage disposal system.
  2. The Commission may require that community sewage disposal systems unconnected to municipal systems be designed in such a way that it may be connected eventually to a municipal sewage disposal system. Community sewage disposal systems shall meet the requirements of the municipal health regulations.
  3. Individual septic systems shall meet the requirements of the municipal health regulations.
- G. Electric, Telephone, Cable T.V.: The subdivider shall coordinate the subdivision's design with the utility companies and submit a plan prepared with their cooperation showing all line extensions

necessary to serve the subdivision. Such plan shall be integrated with a systematic program for distribution of service to the entire area around the subdivision now or in the future. Common rights-of-way shall be utilized whenever possible, and when technology and terrain make it economically feasible, distribution systems should be built underground.

- H. Fire Protection Facilities: Adequate water storage facilities for fire protection within the subdivision shall be provided to the satisfaction of the Commission and the Fire Chief. Where practicable fire hydrants shall be installed by the subdivider.

### **Section 12.15 Drainage Improvements**

An adequate surface storm water drainage system for the entire subdivision area shall be provided. The subdivider may be required by the PC to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivisions. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. Where it is anticipated that additional run-off incidental to the development of the subdivision will overload an existing downstream drainage facility so that there will be drainage to private property or an increase in the expenditure of public funds, the PC shall not approve the subdivision until provision has been made for the improvement of said condition. Where a subdivision is traversed by a water course or drainage way, there shall be provided a drainage easement of such width to encompass the 25-year flood area of such water course, such easement shall be indicated on the Final Plat.

### **Section 12.16 Site Preservation and Improvements**

- A. Natural Cover: Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff and conserve the natural cover and soil. After application for approval has been made to the PC, no topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for the particular subdivision or to meet any requirements of these regulations.
- B. Shade Trees: The PC may require that suitable hardwood shade trees be planted along streets where trees do not exist. All trees shall measure at least 10 feet in height and at least two inches in diameter measured as a point six inches above finished grade level. All trees are to be planted within 5-8 feet from the street line.
- C. Erosion and Sediment Control: The smallest practical area of land should be exposed at any one time during development. Land should not be left exposed during the winter months. Where necessary temporary vegetation and/or mulching and structural measures may be required by the PC to protect areas exposed during the development. Sediment basins shall be installed and maintained during development to remove sediment from run-off water and from land undergoing development.
- D. Excavation and Grading: The entire area of work shall be brought to the required lines and grades by excavation or filling. A minimum of four (4) inches of topsoil shall be provided to cover all finished slopes. All streets shall be graded from property line to property line to approved grade and cross section. The PC may require the developer to submit evidence of boring and/or other solid investigations to determine the depth of composition and stability of the subgrade within the road section. Materials for embankment shall be placed in successive horizontal layers not exceeding six (6) inches in depth. They shall be thoroughly compacted. The PC may require embankments to be planted with stabilizing shrub or ground cover and seeded with a deep root perennial grass to prevent erosion.

### **Section 12.17 Subdivision Organizations and Restrictions**

When a development involves common ownership or community facilities, open spaces, or other commonly held property, a management organization to operate and maintain these facilities shall be required by the PC. A prospectus shall be submitted by the subdivider describing this organization, its financing and membership, which must meet the requirements of the PC.