

Zoning Bylaws

Town of

FERRISBURGH

VERMONT

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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) 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 24 V.S.A. Chapter 117 Section 4441, 4442 and 4444.

Section 1.4 Repeal

The Zoning Bylaws in effect in the Town of Ferrisburgh are hereby repealed as of the effective date of the adoption of these Bylaws.

Section 1.5 Severability

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

Section 1.6 Effective Date

These bylaws become effective upon approval pursuant to Title 24 V.S.A. Ch. 117 Section 4442.

ARTICLE II DEFINITIONS

Section 2.1 General Definitions

Definitions contained in the Vermont Planning and Development Act shall be applicable throughout these bylaws unless otherwise specifically defined in this section and sections 11.22 and 12.4.

Section 2.2 Specific Definitions

ACCESSORY APARTMENT: A dwelling unit located on the same lot with, and clearly subordinate to, the principal dwelling. An accessory apartment may be located in the principal dwelling or in an accessory building provided that: (1) the unit shall contain

no more than two bedrooms; (2) the size shall not exceed 30% of the total habitable floor area of the principal dwelling or 1000 square feet, whichever is larger (3) all applicable State regulations for the provision of sewage disposal and water supply shall be met.

ACCESSORY USE OR BUILDING: A use or building customarily incidental and subordinate to the principal use or building and located on the same lot.

ADJOINING LANDS: Shall include lands directly abutting a parcel or a private right-of-way, and lands across public roads or water.

AGRICULTURAL PRACTICE / USE/ STRUCTURE: Uses and associated structures include, but are not limited to: feeding, fencing, watering, and management of livestock, poultry and game birds, fur bearing animals, and fresh water fish; handling of animal by-products; collection of maple sap (and other tree saps) and the production of syrup from sap; preparation, operation of greenhouses; ditching and tilling of farm fields; rip rapping of farm field stream banks in accordance with the Soil Conservation Service, U.S. Department of Agriculture (SCS) standards or other standards approved by the Town and Commissioner of Agriculture; construction and maintenance of farm buildings; on-site production of fuel or power from agricultural products produced on the farm; and on-site preparation and sale of agricultural products principally produced on the farm.

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

ANIMAL HOSPITAL: See **VETERINARY CLINIC**

APPROPRIATE MUNICIPAL PANEL: In Ferrisburgh, the Planning Commission when performing development review; the Zoning Board of Adjustment.

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 more than six feet.

BOUNDARY ADJUSTMENT: A division of land for the purpose of adjusting boundaries between adjacent lots or parcels where no new lot is created. A boundary adjustment shall not create a nonconforming use or lot.

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

BUILDING AREA: Total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings and structures. All dimensions shall be measured between exterior faces of walls.

BUILDING FRONT LINE: Line parallel to the street line transecting that point of the building which is closest to the street line. Where a lot fronts on public water but not on a public road, "high water line" shall replace "street line" in this definition.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the structure.

BUILDING REAR LINE: Line parallel to the street line transecting that point of the building which is farthest from the street line. Where a lot fronts on public waters but not on a public road, "high water line" shall replace "street line" in this definition.

BUILDING SIDE LINE: Line parallel to the nearest side lot line transecting that point of the building which 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 limited intermittent use on a seasonal basis for no more than six consecutive months.

CAMPER: Any motorized or unmotorized 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.

CLINIC: A non-residential office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

CLUB: Building or use catering exclusively to club members and their guests for recreational, educational or service purposes.

COMMERCIAL PARKING LOT: A facility where, for a fee, registered motor vehicles may be parked for a period of time.

COMMUNITY CARE HOME: See **GROUP HOME**

COMMUNITY FACILITY: Any meeting hall, place of assembly, museum, art gallery, library, school, church or other similar type of establishment which is not operated primarily for profit, excluding government facility.

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

CONTRACTOR'S YARD: Lot and /or buildings used to store a construction contractor's equipment and materials; does not include retail building or construction equipment and materials stored for the purpose of retail sales.

CONVENIENCE, RETAIL: Shall mean an establishment whose principal use is the sale of products in small quantities for the daily use of customers including, but not limited to, bakeries, food stores, news stands, tobacco shops, card shops, liquor stores, delicatessens, musical supply stores, pet stores, jewelry stores, camera and photography supplies, ice cream parlors, meat and seafood shops and florist shops.

DAY CARE FACILITY: A facility in which care is provided on a regular basis for seven or more children, under twelve years of age, at one time. Such facilities include those commonly known as "day care center", "play groups" and "preschool"

DAY CARE HOME: A facility which provides care in the owner's residence on a regular basis for six or fewer children at any time, excluding children of the owner.

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 FACILITY: An establishment designed or operated to serve a patron while seated in a motor vehicle parked in an off-street parking space.

DUMP: See **SANITARY LANDFILL**

DWELLING UNIT: Building or part thereof used as living quarters for one family which includes facilities for food preparation, sleeping and sanitary facilities. The terms "dwelling unit", "one-family dwelling", "two-family dwelling" or "multiple-family dwelling" shall not include a tourist home or motor lodge.

DWELLING, ONE-FAMILY: Detached building used as living quarters by one family.

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

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

DWELLING UNIT, SEASONAL: See **SEASONAL DWELLING UNIT**

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

FAMILY CHILDCARE HOME: A family childcare home as used in these regulations means a home or facility where the owner or operator is licensed or registered by the state for childcare. A family child care home serving no more than six (6) full-time and four (4) part-time children as defined in 33 V. S. A. §4902(3)(A) shall be considered to constitute a permitted use of property on the same conditions as a single family dwelling.

A family childcare home serving more than 6 full-time and 4 part-time children shall be reviewed as a conditional use in zoning districts where it is allowed.

FENCE: Structure used primarily for enclosure or screening. (See STRUCTURE)

FINISHED GRADE: Completed surfaces of ground, lawn, walks, paved areas and roads brought to grade.

FLOOR AREA: Sum of the gross horizontal area of the floors of a building, excluding basement floor areas, unless said basement floor area is counted as a story under definition of "basement". All dimensions shall be exterior.

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 should 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.

GASOLINE STATION: Any lot or area of land, including the building or buildings thereon which is used for the sale of any motor vehicle fuel whether or not said use constitutes primary or accessory use.

GOVERNMENT FACILITY: Any building held, used or controlled exclusively for public purposes by any department or branch of municipal, state or federal government, or subdivision thereof, without reference to the ownership of the building or the reality upon which it is situated.

GROUP HOME: Any residential facility operating under a license or registration granted or recognized by a state agency that serves no more than eight unrelated persons who have a handicap or disability as defined in 9 V.S.A. §4501 and who live together as a single housekeeping unit.

HEAVY MANUFACTURING OR INDUSTRY: The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in substantial off-site impacts or all such activity and storage of raw or finished products is not enclosed inside a building or screened from the abutting properties and public rights-of-way. Such uses include, but are not limited to, the following: paper, pulp, or lumber mills; freight or trucking terminals; contractor's yards; concrete, asphalt, or brick plants; quarries; bulk fuel storage of over 550 gallons; slaughter houses, rendering, hide tanning; manufacturing or processing of fertilizer, bone, rubber, ammonia, chlorine, petroleum products, gas or explosives, and other similar uses.

HIGH WATER LEVEL: The terms high water mark, high water level and normal high water mark are considered to be one and the same. For Lake Champlain the high water level has been established as 98 feet above mean sea level.

HISTORIC BUILDING OR STRUCTURE: Any building or structure that has been certified in writing by the Vermont Division for Historic Preservation.

HOME OCCUPATION: An occupation by a resident of a dwelling which utilizes a minor portion of a dwelling or of an accessory building and which is customary in residential areas and which does not change the character thereof.

HOME OCCUPATION I: Any occupation that is entirely within a living area of a residence, carried on only by members of the residing household, and is clearly secondary to the use of the dwelling as a residence. Examples include professional offices for doctors, lawyers or realtors; small repair shop for small appliances, watches etc; home tutoring, weaving or other uses deemed similar or appropriate by the zoning board that will fit the character of the neighborhood.

HOME OCCUPATION II: Any small industry or service type operation that is carried on within a residence or accessory building. Examples are small manufacturing shops, automotive repair, antique shops, small professional office or other uses deemed similar or appropriate by the zoning board that will fit the character of the neighborhood.

JUNKYARD: Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. Junk Yard also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway. However, the term does not include a private garbage dump or a sanitary landfill which is in compliance with VSA 24 Section 2202 and the regulations of the secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

KENNEL: An establishment for the breeding and boarding of six (6) or more dogs.

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.

LIGHT MANUFACTURING OR INDUSTRY: The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in no substantial off-site impacts and all such activity and storage of raw or finished products is enclosed in a building or is screened from the abutting properties and public rights-of-way. Such uses include but are not limited to the following: blacksmith's shop

or foundry; cabinetry or woodworking shop; electronics or high-tech manufacturing or assembly; machine shop; monument or stone works; sewing; printing; warehousing; wholesale trade; diesel engine, truck, tractor, or heavy equipment storage, sales, or repair; research and testing laboratory; and other similar uses.

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: For the purposes of land development, 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 access as may be required elsewhere in these bylaws. This definition includes an existing small lot, per Section 5.7, which 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 which 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.

LOT DEPTH: A distance measured along a straight line at right angle to the lot width at the shortest distance from the rear lot line to the street line or front lot line. Where a lot fronts on public waters but not a public road, ~~“mean water line”~~ shall replace ~~“street line”~~ in this definition.

LOT FRONTAGE: A distance measured across the width of the lot at the public road or, in the absence of a public road, the public waters.

LOT LINE: Property lines bounding a lot.

LOT LINE, REAR: The lot line opposite and most distant from the street line. Where a lot fronts on public waters but not on a public road, ~~“mean water line”~~ 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 as 95.5 feet above mean sea level.

MIXED USE: A lot or structure containing two or more uses.

MOBILE HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, it does not include recreational vehicles or travel trailers.

MOBILE HOME PARK: Any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate, two or more mobile homes.

MOTOR LODGE: A building or group of buildings used for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals. Does not include tourist home.

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.

NON-COMPLYING STRUCTURE: A structure or part thereof not in conformance with the zoning regulations covering building bulk, dimensions, height, area, yards, density or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations or bylaws.

NON-CONFORMING USE: Use of land or structure which does not comply with all zoning regulations where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations or bylaws.

OFFICE: see **PROFESSIONAL OFFICE OR PROFESSIONAL RESIDENCE OFFICE**

PARCEL: A tract of land in the same ownership, which may be divided by a public road, and 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.

PERSONAL SERVICE: Barber, beauty parlor, shoe repair, laundromat, dry cleaner, photographic studio, massage parlor and other businesses providing similar personal services, except for medical services.

PLANNED RESIDENTIAL DEVELOPMENT (PRD): An allowed method of land development for residential use. An area of land to be developed as a single entity for a number of dwelling units, the plan for which does not conform to the zoning regulations established for the district in which it is proposed to be located. The permitted number of dwelling units shall not exceed the number which could be permitted if the land were subdivided into lots in conformance with the zoning regulations. Dwelling units may be clustered to take advantage of site locations best suited for development and to preserve open space values. See Section 4407(3) of the Act for a more complete description of PRD.

PLANNED UNIT DEVELOPMENT (PUD): An allowed method of land development for an area of land to be developed as a single entity for a number of dwelling units and commercial and industrial uses, if any, the plan for which does not correspond in lot size, bulk, or type of dwelling, commercial, or industrial use, density, lot coverage, and required open space to the zoning regulations established for the district in which it is proposed to be located. A PUD can encourage new communities, innovation in design and layout, and more efficient use of land. See Sections 4303(14) and 4407(12) of the Act for a more detailed description of PUD.

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 OFFICE: Professional office including architect, accountant, dentist, doctor, lawyer, engineer, psychologist or other similar occupation.

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

PUBLIC WATERWAY: Any waterway that is open to the public and navigable when Lake Champlain is at mean water level of 95.5 feet.

QUARRYING: 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 of indoor recreation.

RECREATION, OUTDOOR: Golf course, hunting preserve, skating rink, park, beach, recreation stadium, skiing facility, playground, ballfield, commercial stable, swimming pool, or other similar places of outdoor recreation.

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.

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.

RESTAURANT: A public eating establishment in which the primary function is the preparation and serving of food.

RETAIL, CONVENIENCE: see CONVENIENCE, RETAIL

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

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

RIGHT-OF-WAY: see STREET

SANITARY LANDFILL: Land used for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

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

SIGN: Any device, structure, building or part thereof, for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

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

SOLAR ENERGY SYSTEM: A complete design or assembly consisting of a solar energy collector, an energy storage facility, where used, and components for the distribution of transformed energy, to the extent they cannot be used jointly with a conventional energy system. Passive solar energy systems, those which use natural or architectural components to collect and store or utilize solar energy without using external mechanical power, are included in this definition.

STABLE, COMMERCIAL: A facility where animals are kept for remuneration, hire, or sale.

STABLE, PRIVATE: A facility where animals are kept for private use, not for remuneration, hire, or sale.

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: Public or private way for vehicular traffic, which affords the principal means of access to abutting properties.

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

STRUCTURE: An assembly of materials for occupancy or use, including, but not limited to, a building, manufactured home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm. Structures do not include sidewalks, driveways, roads, or non-commercial parking lots, non opaque fences or fences less than four (4) feet in height.

TOURIST HOME: Building wherein people are sheltered for profit. Does not include motor lodge.

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: A departure from the zoning bylaws, which is granted or denied by the Zoning Board of Adjustment. The conditions specified in Section 4468 of the Act must exist in order for a variance to be granted.

VETERINARY CLINIC / ANIMAL HOSPITAL: A building or premises for the medical or surgical treatment of domestic animals.

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.

WAIVER: A reduction of required dimensional standards by approval of an Appropriate Municipal Panel after public notice, hearing and findings.

WETLANDS: See Vermont Wetland Rules (adopted 2/7/90); see also 34 VSA 4303.

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

YARD: Space on a lot not occupied with a building or structure.

YARD, FRONT: Area between the center of the street and the building front line. A corner lot has two front yards.

YARD, SIDE: Area between a side lot line and building sideline.

ARTICLE III ZONING DISTRICTS AND ZONING MAP

Section 3.1 Establishment of Zoning Districts

The following Zoning Districts are established:

Conservation District	í í í í í í í í í í í í í í í í í í í	CON-25
Highway Commercial District	í í í í í í í í í í í í í í í í í í	HC-2
Industrial District	í í í í í í í í í í í í í í í í í í í	IND-2
Rural Residential District	í í í í í í í í í í í í í í í í í í í	RR-2
Rural Agricultural District	í í í í í í í í í í í í í í í í í í í	RA-5
Shoreland District	í í í í í í í í í í í í í í í í í í í	SD-2
Village District	í í í í í í í í í í í í í í í í í í í	VIL-2

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

- A. Boundaries indicated as approximately following streets, highways or alleys shall be construed as following the centerlines of such streets, highways or alleys.
- B. Boundaries indicated as following railroad lines shall be construed as following the centerlines of the rights-of-way of such railroad lines.
- C. Boundaries indicated as following property lines or plotted lines shall be construed as following such lines as they exist on the effective date of the district boundary created by these bylaws
- D. Boundaries indicated as following shorelines shall be construed as following mean water level of such shorelines; boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
- E. Boundaries parallel to, or extensions of, features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map or described under each zone shall be determined by the scale of the map.

Section 3.4 Administration of District Boundary Rules

When the Administrative Officer can not definitely determine the location of a district boundary, the Planning Commission 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

No land development shall occur unless in conformance with these bylaws herein specified for the district in which it is located.

Any use not expressly permitted in a district is prohibited in that district.

The enactment of these Bylaws shall not repeal, annul or in any way impair any zoning permit previously issued.

ARTICLE IV ZONING DISTRICT REGULATIONS

The provisions of all prior Articles 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 with a majority of their soils capable, with least modification, to adequately drain septic systems and are 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 or development in this area. A minimum lot size of two (2) acres is required for these

areas to encourage their utilization and thereby reduce site development costs, increase public health; restrain public service capital and unit costs and preserve remaining agricultural areas.

B. Permitted Uses

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

1. One family dwelling, including specifically state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped except that no such home shall be considered as a permitted single-family residential use if it is located within 1,000 feet of another such home.
2. Two family dwelling
3. Accessory Use
4. Home Occupation I
5. Day care home
6. Accessory dwelling, efficiency or 1 bedroom

C. Conditional Uses

The following uses may be permitted in the RR-2 District as conditional uses by the Zoning Board in accordance with Article IX Section 9.4 of these bylaws:

1. Tourist home
2. Recreation, outdoor
3. Cemetery
4. Home Occupation II
5. Day care facility
6. Accessory dwelling, 2 bedroom
7. Storage trailer
8. Multiple family dwelling
9. Other similar uses which meet the intent of purpose statement upon finding by the Zoning Board that the use is of the same general character as those permitted and which will not be detrimental to the other uses within the District or to the adjoining land uses.

D. Dimensional Standards

- | | |
|---|----------|
| 1. Minimum lot size | 2 acres |
| 2. Minimum acreage for each dwelling unit or primary use building | 2 acres |
| 3. Lot frontage and lot width minimum | 200 feet |
| 4. Lot depth requirement | 350 feet |
| 5. Front yard minimum (measured from centerline of road) | 80 feet |
| Minimum setback on Route 7 | 100 feet |
| 6. Rear and sideyard setbacks | 25 feet |
| 7. Maximum height | 35 feet |
| 8. Maximum lot coverage | 20% |

Section 4.2 Rural Agricultural District (RA-5)

A. Purpose

Generally, these areas do not have the soil characteristics with good residential or commercial development potential, but are best suited for agricultural use. 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. One family dwelling, including specifically state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped, except that no such home shall be considered as a permitted single-family residential use if it is located within 1,000 feet of another such home
2. Two family dwelling
3. Accessory use
4. Home Occupation I
5. Day care home
6. Accessory dwelling, efficiency or 1 bedroom

C. Conditional Uses

The following uses may be permitted in the RA-5 District as conditional uses by the Zoning Board in accordance with Article IX, Section 9.4 of these bylaws.

1. Tourist home
2. Recreation, outdoor
3. Cemetery
4. Home Occupation II
5. Day care facility
6. Storage trailer
7. Accessory dwelling, 2 bedroom
8. State or community owned and operated institutions and facilities
9. Public and private school and other educational institutions certified by the Vermont Department of Education.
10. Churches, convents and parish houses
11. Public and private hospitals
12. Multiple family dwelling
13. Mobile Home Parks
14. Other similar uses which meet the intent of purpose statement upon finding by the Zoning Board that the use is of the same general character as those permitted and which will not be detrimental to the other uses within the District or to the adjoining land uses.

C. Dimensional Standards

- | | |
|---|----------|
| 1. Minimum lot size | 5 acres |
| 2. Minimum acreage for each dwelling unit or primary use building | 5 acres |
| 3. Lot frontage and lot width minimum | 400 feet |

4. Lot depth requirement	450 feet
5. Front yard minimum (measured from centerline of road)	80 feet
Minimum setback on Route 7	100 feet
6. Rear and sideyard setbacks	25 feet
7. Maximum height	35 feet
8. 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

1. Accessory dwelling, efficiency or 1 bedroom
2. Day care home
3. Home Occupation I

C. Conditional Uses

The following uses may be permitted in the CON-25 District as conditional uses by the Zoning Board in accordance with Article IX Section 9.4 of these bylaws.

1. Recreation, outdoor
2. Seasonal dwelling unit / Camp
3. One family dwelling, including specifically state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped, except that no such home shall be considered as a permitted single-family residential use if it is located within 1,000 feet of another such home.
4. Home Occupation II
5. Parking lot as an accessory use to outdoor recreation
6. Day care home, day care facility
7. Accessory dwelling, 2 bedroom
8. Storage trailer
9. State or community owned and operated institutions and facilities
10. Public and private schools and other educational institutions certified by the Vermont Department of Education
11. Churches, convents and parish houses

12. Marina
13. Other similar uses which meet the intent of purpose statement upon finding by the Zoning Board that the use is of the same general character as those permitted and which will not be detrimental to the other uses within the District or to the adjoining land uses.

D. Dimensional Standards

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

Section 4.4 Highway Commercial District (HC-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 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 HC-2 District

1. Accessory dwelling, efficiency or 1 bedroom
2. Day care home
3. Home Occupation I

C. Conditional Uses

The following uses may be permitted in the HC-2 District as conditional uses by the Zoning Board in accordance with Article IX Section 9.4 of these bylaws.

1. Accessory dwelling, 2 bedroom
2. Carwash
3. Churches, convents and parish houses
4. Community facility
5. Club
6. Commercial parking lot
7. Enclosed accessory use
8. Home Occupation II
9. Gasoline station
10. Freight or trucking terminals
11. Indoor recreation facility
12. Laundromat

13. Mortuary
14. Motor Lodge
15. Motor vehicle, mobile home, trailer, farm implement or industrial equipment sales and service
16. Multiple family dwelling
17. One and two family dwellings
18. Public and private schools and other educational institutions and facilities
19. Public and private hospitals
20. Restaurant, Bar
21. Retail store
22. Storage trailer
23. State or community owned and operated institutions and facilities
24. Warehouse
25. Other similar uses which meet intent of purpose statement upon finding by the Zoning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the District or to the adjoining land uses.

D. Dimensional Standards

- | | |
|---|----------|
| 1. Minimum lot size | 2 acres |
| 2. Minimum acreage for each dwelling unit or primary use building | 2 acres |
| 3. Lot frontage and lot width minimum | 200 feet |
| 4. Lot depth minimum | 300 feet |
| 5. Front yard minimum | 100 feet |
| 6. Rear yard minimum | 50 feet |
| 7. Side yard minimum | 25 feet |
| 8. Building height maximum | 35 feet |
| 9. 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 light industry and the continuation of the present industrial uses. Industrial use should be subject to review to protect residential amenities. They should be located with easy access to highway and rail services. The size of the industrial uses should 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, efficiency or 1 bedroom
2. Day care home
3. Home Occupation 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 Article IX Section 9.4 of these bylaws.

1. One family dwelling, including specifically state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped, except that no such home shall be considered as a permitted single-family residential use if it is located within 1,000 feet of another such home.
2. Two family dwelling
3. Day care facility
4. Enclosed light manufacturing industries
5. Warehouse
6. Public utility
7. Gasoline station
8. Enclosed service and repair
9. Freight and trucking terminal
10. Contractor's yard
11. Public garage
12. Animal hospital or veterinary clinic, provided that animals are housed at least 200 feet from any residential district
13. Parking lot
14. Accessory use
15. Mine, quarry, sand, sub-soil or gravel pit
16. Accessory dwelling, 2 bedroom
17. Storage trailer
18. Public utility power generating plants and transmission lines
19. Regional solid waste management facilities certified under 10 VSA Chapter 159
20. Hazardous waste management facilities for which a notice of intent to construct has been received under Section 6606(a) of Title 10
21. Other similar uses which meet the intent of purpose statement upon finding by the Zoning Board that the use is of the same general character as those permitted and which will not be detrimental to the other uses within the District or to the adjoining land uses.

C. Dimensional Standards

- | | |
|--|---|
| 1. Minimum lot size | 2 acres |
| 2. Minimum acreage required for each dwelling unit or primary use building | 2 acres |
| 3. Lot frontage and lot width minimum | 200 feet |
| 4. Lot depth minimum | 300 feet |
| 5. Front yard minimum | 100 feet |
| 6. Front yard minimum on Route 7 between Route 22A and the railroad tracks | 200 feet |
| 7. Rear yard minimum | 50 feet or 100 feet from abutting residential districts |

8. Side yard minimum	25 feet or 100 feet from abutting residential districts
9. Building height maximum	35 feet
10. Lot coverage maximum	40%

Section 4.6 Shoreland District (SD-2)

A. Purpose

Generally this district includes concentrations of existing commercial and residential uses 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. Day care home
3. Home Occupation I

D. Conditional Uses

The following uses may be permitted in the SD-2 District as conditional uses by the Zoning Board in accordance with Article IX Section 9.4 of these bylaws.

1. One family dwelling, including specifically state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped, except that no such home shall be considered as a permitted single-family residential use if it is located within 1,000 feet of another such home.
2. Two family dwelling
3. Camp / Seasonal Dwelling Unit
4. Agricultural and forest uses
5. Cemetery
6. Accessory use
7. Home Occupation II
8. Accessory dwelling, 2 bedroom
9. Community facility
10. Club
11. Recreation, indoor and outdoor
12. Retail store
13. Gasoline and motor vehicle service station
14. Professional and business office

15. Marina
16. Greenhouse
17. Nursery
18. Restaurant
19. Motor lodge
20. Day care home, Day care facility
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. Personal service
24. State or community owned and operated institutions and facilities
25. Public and private schools and other educational institutions certified by the Vermont Department of Education
26. Churches, convents and parish houses
27. Public and private hospitals
28. Resort
29. Other similar uses upon finding by the Zoning Board that the use is of the same general character as those permitted and which will not be detrimental to the other uses within the District or to the adjoining land uses.

E. Dimensional Standards

- | | |
|---|----------|
| 1. Minimum lot size | 2 acres |
| 2. Minimum acreage for each dwelling unit or primary use building | 2 acres |
| 3. Lot frontage and lot width minimum | 200 feet |
| 4. Lot depth minimum | 300 feet |
| 5. Front yard minimum | 80 feet |
| 6. Rear and sideyard setbacks | 25 feet |
| 7. Building height maximum | 35 feet |
| 8. Lot coverage maximum | 20% |

Section 4.7 Village District (VIL-2)

A. Purpose

This district is comprised of uses that are appropriate for the mix of commercial and residential properties. The Village district is established to recognize the pre-existing mixed uses of land that appear along portions of Route 7. This is to allow for enhancement of existing residences and businesses and the addition of new low impact businesses. This type of zone will promote the future development that is in keeping with the character of the area. A minimum lot size of two (2) acres is required for these areas.

B. Permitted Uses

The following uses are permitted in the VIL-2 District

1. Accessory dwelling, efficiency or 1 bedroom
2. Day care home
3. Home Occupation I

C. Conditional Uses

1. One family dwelling, including specifically state licensed or registered residential care home or group home serving not more than six persons who are developmentally disabled or physically handicapped, except that no such home shall be considered as a permitted single-family residential use if it is located within 1,000 feet of another such home.
2. Two family dwelling
3. Accessory use
4. Home Occupation II
5. Expansion of pre-existing businesses with district guidelines
6. Conditional uses in the RR-2 District
7. Offices
8. Retail stores
9. Personal service establishments
10. Recreational facilities
11. Community facilities
12. Motor vehicle, recreational vehicle, farm implement, sports equipment sales and service
13. Club
14. Motor lodge
15. Mortuary
16. Enclosed accessory use
17. Restaurant
18. Bank or other financial service establishment
19. Storage trailer
20. Multiple family dwelling
21. PUD
22. Other commercial uses upon the findings of the Zoning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to adjoining land.

D. Dimensional Standards

- | | |
|---|----------|
| 1. Minimum lot size | 2 acres |
| 2. Minimum acreage for each dwelling unit or primary use building | 1 acre |
| 3. Lot frontage and lot width minimum | 200 feet |
| 4. Lot depth minimum | 300 feet |
| 5. Front yard minimum | 100 feet |
| 6. Rear yard minimum | 25 feet |
| 7. Side yard minimum | 25 feet |
| 8. Building height maximum | 35 feet |
| 9. Lot coverage maximum | 40 % |

ARTICLE V GENERAL BYLAWS

The provisions of these bylaws shall be subject to such additions, modifications or exceptions as herein provided by the following general regulations.

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 Campers

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. Parked behind the building front line of the principal building
 - 2. Not used as permanent living quarters; and
 - 3. Not hooked up to water or sewer utilities

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 5.4 Construction Approved Prior to Adoption of, or Amendment to Regulations

No permit shall be 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 within one year from the date of such adoption.

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 5.5 Corner Lot Exceptions

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 5.6 Dwelling Units Below Grade

The finished floor level of all rooms in every two-family and multiple-family dwelling unit shall be not more than one foot below finished grade level measured at a

point ten feet outside and at right angles to each window lighting each room. Each such finished floor level shall have access leading outside the building.

Section 5.7 Existing Small Lots

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 Municipal and Regional Planning and Development 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 a area with a minimum width or depth dimension of forty feet.

- A. 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).
- B. 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 disposal system as of the effective date of these regulations;
 - (2) The deeds of conveyance create appropriate easements for an off-site location for water supply and wastewater disposal systems to serve the nonconforming lot; or
 - (3) All parties submit a signed letter indicating that they understand that the lot is nonconforming and that it may not be able to be developed if a potable water and wastewater permit is not issued by the state.

Section 5.8 Extraction of Subsoil, Sand or Gravel

All removal of topsoil, subsoil, sand or gravel shall require a zoning permit. The removal of subsoil, sand 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 subject to Section 9.4. 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 shall be secured from the applicant sufficient to ensure that upon completion of the extraction operation the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this. The bond shall be sufficient to cover the cost of the plan.
- 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 Administrative Officer.

- 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 Administrative Officer.
- 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 Administrative Officer.
- 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 Administrative Officer 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

The installation of freestanding dishes and antennas shall meet the minimum setback, lot coverage, and height requirements for the district in which it is located, and shall be permitted only in the rear yard of a dwelling or other building served. Alternative siting will be permitted by the Zoning Board if the following criteria are met:

- A. Quality reception requires alternative siting
- B. Screening that does not impair reception is used to minimize the visibility of the installation from the public right-of-way and neighboring properties

Section 5.11 Gasoline Station or Motor Vehicle Service Stations

- Gasoline or motor vehicle service stations shall comply with the following:
- A. A gasoline station or motor vehicle service station lot shall not be located within three hundred 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 thirty-five 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 shall be carried out in any district, which leaves the slope of the finished grade in excess of 50%.

Section 5.13 Height Restrictions

Through the conditional use review procedure, the Zoning Board may permit a structure to exceed the applicable building height maximum if the general standards of Section 9.4.A are met and if the structure or extension thereof is a steeple, bell tower, fire tower, antenna, monument, cooling tower, chimney, flagpole, electric transmission pole, wind energy conversion system or other similar structure meeting all other applicable requirements of these bylaws. Agricultural barns and farm silos are exempted from height restrictions.

Section 5.14 Home Occupations

No regulation herein is intended to infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in a residential area and which does not change the character thereof.

A zoning permit application may be submitted to the Zoning Administrator so that a determination can be made as to whether the proposed use is, in fact, a home occupation as defined by these bylaws.

Section 5.15 Home Occupation I Requirements

- A. The home occupation shall be carried on by members of the family living on the premises only.
- C. No exterior displays or signs shall be permitted other than one sign not exceeding four square feet in total area.
- D. No traffic shall be generated in greater volume than would be normally expected in the neighborhood.
- E. Excessive noise, smoke, vibrations, dust, glare, odor, electrical interference or heat that is detectable at the boundaries of the premises shall be prohibited.
- F. Parking shall be provided off street and shall be located in the side or rear yard.
- G. No exterior storage of material shall be permitted.
- H. If these requirements are all met, the Zoning Administrator may issue a permit, unless the use is deemed to be a conditional use as specified in Article IV, which may be appealed within fifteen days.

Section 5.16 Home Occupation 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. The home occupation, if conducted in an accessory building, should be at least 200 feet from the nearest neighboring residence.
- F. There should be no substantial increase of traffic.
- G. All materials shall be inside or screened from the road and neighbors.
- H. It is the responsibility of the applicant to meet any state regulations.
- I. All home occupation II shall require Conditional Use approval from the Zoning Board.

Section 5.17 Interior Lots

Any lot which does not have frontage on either a public road or public waters 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.

Section 5.18 Landscaping

Where any non-residential district abuts any residential district, a strip of land as 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.

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.

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 5.19 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 extent not more than thirty feet into the more restricted part.

Section 5.20 Lots Located On Public Waters

On lots located on public waters there shall be no building construction within 80 feet of mean water line (95.5 feet)

Section 5.21 Planned Residential Development (PRD)

In accordance with the provisions set forth in 4407(3) of the Act, and in those districts in which residential uses are allowed, the modification of the district regulations by the Planning Commission is permitted simultaneously with approval of a site plan under the following procedures:

A. Purpose

The purpose of the planned residential development (PRD) provisions is to encourage preservation of forestry and agricultural lands by allowing flexibility of design and development of land in such a manner as to promote the most appropriate use of land. To facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of open land, to provide for a mixture and variety of housing types at different densities.

B. Application procedure

The applicant shall follow procedure for a major subdivision and provide a written statement setting forth the nature of all proposed modifications, changes or supplementation of existing zoning regulations. (See major subdivision application and approval procedures.)

C. General Standards for Review

The following general standards shall be met in order for the Planning Commission to approve the application:

1. The PRD is consistent with the municipal plan.
2. The overall density of the project does not exceed the number of dwelling units which could be permitted, in the Planning Commission's judgement, if the land (excluding the area within the boundaries of any proposed road) were subdivided into lots in accordance with the district regulations and other relevant provisions of these bylaws.
3. The uses proposed for the project are residential; dwelling units may be of varied types, including one-family, two-family or multifamily construction.
4. The PRD is an effective and unified treatment of the development possibilities of the site and the development plan makes appropriate provision for preservation of streams, and stream banks, steep slopes, wet areas and unique natural and man-made features.
5. The development plan is proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.
6. Where possible, buildings shall be sited so as to take advantage of southeast, south or southwest orientations. No building in the development shall cast shadows which will preclude the proposed or potential use of solar energy collectors which are located upon and/or within the most southerly facing wall or roof of any other dwelling unit within the development, except where topographical conditions make compliance unreasonable.
7. Any modification of the zoning regulations approved under this section shall be specifically set forth in terms of standards and criteria for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be noted on or appended to the application.

8. Any open space land will be evaluated as to its agricultural, forestry and ecological quality.

D. Specific Standards for Review

The following specific standards shall be met in order for the Planning Commission to approve the application:

1. District regulations on height and spacing between main buildings shall be met.
2. To ensure adequate privacy for existing or proposed uses adjacent to the PRD, structures on the perimeter of the PRD shall be set back 50 feet and screening may be required.
3. Adequate water supply and sewage disposal facilities shall be provided.
4. Each dwelling unit shall have a minimum two acre lot exclusively associated with it and must comply with the specific standards set forth in Section 4.1 and 4.2 of these bylaws, excluding the lot depth requirement.
5. The minimum acreage for a PRD shall be 25 acres and a minimum of 60% of the total parcel shall remain undeveloped.

E. Open Space

If the PRD results in lands available for parks, recreation, open space or other municipal purposes the Planning Commission as a condition of its approval may establish such conditions as to the ownership, use and maintenance of such land as it deems necessary to assure the preservation of such lands for their intended purposes.

Section 5.22 Planned Unit Developments

In accordance with the provisions set forth in Section 4407(12) of the Act, the modification of the district regulations by the Planning Commission is permitted in the Shoreland District (SD-2) simultaneously with approval of a site plan under the following procedures: (This site plan approval is permitted simultaneously with major subdivision approval under Ferrisburgh's major subdivision regulations.)

A. Purpose

The purpose of the planned unit development is to encourage new communities, innovation in design and layout and more efficient use of land.

B. Application Procedures

The applicant shall follow the procedures established for major subdivision approval set forth in ARTICLE 11 of the Ferrisburgh Subdivision Regulations and shall, in addition to the requirements set forth therein, submit a statement setting forth the nature of all proposed modifications, changes or supplementation of existing zoning regulations and a statement setting forth the proposed use and maintenance of open lands.

C. General Standards

The following general standards shall be met in order for the Planning Commission to approve the application:

1. The PUD is consistent with the Town Plan and all applicable bylaws.

2. The overall residential density of the project does not exceed the number of dwelling units which could be permitted in the Planning Commission's judgment, if the land were subdivided into lots in accordance with the district regulations.
3. The uses proposed for the project are permitted or conditional uses for the district in which the project is proposed.
4. The PUD is an effective and unified treatment of the development possibilities of the project site, and the development plan makes appropriate provisions for preservation of streams, stream banks, steep slopes, wet areas, and unique natural and man-made features.
5. The development is proposed at a reasonable scale and over a reasonable period of time in order that adequate town facilities and services may be provided.
6. Any modification of the zoning regulations approved under this section shall be specifically set forth in terms of standards and criteria for design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be noted or appended to the application.
7. The proposal provides for appropriate allocation, distribution and maintenance of open space lands and agricultural or forest lands; this may include the granting of protective easements or covenants to the Town for undeveloped areas of the PUD.
8. The proposal must provide for economy, efficiency and safety of road, parking, unloading and utility installation, construction and maintenance.

D. Specific Standards for Review

The following specific standards shall be met in order for the Planning Commission to approve the application:

1. District regulations on height and spacing between main buildings and lot coverage maximum shall be met.
2. To ensure adequate privacy for existing and proposed uses adjacent to the PUD, structures on the perimeter of the PUD shall be set back at least 80 feet or the setback required in the district, whichever is greater, and landscaping as described in Section 5.16 shall be required.
3. Adequate water supply and sewage disposal facilities shall be provided.
4. The land in a PUD application shall not be less than twenty-five (25) acres.
5. No roadway shall have a grade at any point in excess of 10 percent.
6. Specific requirements of these regulations relating to parking, access, landscaping and signs shall be minimums for PUDS; the Planning Commission may increase these minimums as necessary to prevent fire hazards and interference with rights of neighboring property owners to reasonable enjoyment of their property.

Section 5.23 Projection in Yards

Every part of a required yard 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 yard. 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 yard if conformance with yard requirements will cause undue expense or unusual difficulties.

Section 5.24 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 5.25 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 when part of a lot is taken for a public purpose.

Section 5.26 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 5.27 Required Frontage on, or Access to, Public Roads or Public Waters

No land development may be permitted on lots which do not have either frontage on a public road (including Class 4 roads known as legal trails) or public waters, or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way at least 60 feet in width.

Section 5.28 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 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 5.29 Solar and Wind Energy Systems

A solar energy system, whether as a part of a building or incidental to a building, is a permitted accessory use within all districts unless exempted under (D). A wind energy conversion system is a conditional use with the Zoning Board considering the following criteria in addition to the general standards specified in Section 9.4 unless exempted under (D).

- A. Climbing access to the tower shall be restricted.
- B. 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.
- C. 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.

D. Power generation and transmission facilities regulated by the Vermont Public Service Board [30 V.S.A §248] 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.

Section 5.30 Storage of Flammable Liquids

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

All tanks having a capacity greater than five hundred and fifty gallons shall be properly retained with dikes having a capacity not less than one and one-half times the capacity of the tanks surrounded.

Section 5.31 Temporary Uses and Structures

Temporary permits may be issued by the Administrative Officer 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 5.32 Child Care Facilities

- (A) Family Childcare Home. A family childcare home that meets all of the following standards shall be allowed to the same extent that the zoning district allows single-family dwellings.
- (1) A resident of the dwelling in which the use is occurring shall operate the childcare home.
 - (2) The childcare home shall be operated under state licensing or registration.
 - (3) The childcare home shall serve 6 or fewer full-time and 4 or fewer part-time children.
 - (4) One unlit exterior sign shall be permitted in accordance with Article VII.
 - (5) The childcare 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 Facility. Daycare facilities that do not meet the definition of a family childcare home may be allowed in designated zoning districts subject to conditional use approval in accordance with Section 9.4 as well as site plan review where required in accordance with Section 9.6.
- (1) The daycare facility shall be operated under state licensing or registration.
 - (2) Parking shall be provided on-site in accordance with Article VI.
 - (3) Signage shall be in accordance with Article VII.
 - (4) Lighting shall be in accordance with Section 8.2.

- (5) Daycare facilities shall meet all performance standards in accordance with Article VIII.

Section 5.33 Group Homes

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 5.34 Affordable Housing

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

- (1) In accordance with the Act, no provision of these regulations shall have the effect of excluding mobile homes, modular housing, or other forms of pre-fabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded.
- (2) Mobile homes shall be treated as, and meet all requirements pertaining to, single-family dwellings except within permitted mobile home parks in accordance with Section 5.35 of these regulations.
- (3) These regulations shall promote accessory apartments in all districts allowing single-family dwellings.

Section 5.35 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.

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: One parking space for every motor vehicle used in business, plus every two hundred square feet of floor area.

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

Section 7.1 General

- No signs shall be permitted without meeting the following criteria:
- A. Will not be a detriment to public safety or welfare.
 - B. Be of a character, size and location that will be in harmony with the orderly development of the district.
 - C. Be of a character, size and location that maintains a presence secondary to the principal structure of the property. In the case of three-dimensional signs, the calculated area shall be the total surface area of the three-dimensional sign as viewed from the public way.

Section 7.2 Traffic, Hazard, Safety and Obstruction

- Every sign shall be designed and located in such a manner as to:
- A. Not impair public safety, traffic flow or roadway visibility
 - B. Not restrict clear vision between a sidewalk and street
 - C. Not be confused with any traffic sign or signal
 - D. Not prevent free access to any door, window or fire escape
 - E. Withstand a wind pressure load of at least thirty pounds per square foot

Section 7.3 Road Setback Requirement

The road setback requirement of all proposed sign locations must be judged by the Administrative Officer or Zoning Board to be sufficient to comply with the provisions of Section 7.1 and 7.2.

Section 7.4 Illuminated and Flashing Signs

Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.

Flashing, oscillating or revolving signs shall not be permitted, unless necessary for public safety or welfare.

Section 7.5 Off-Premise Signs

Any sign located elsewhere than upon the lot containing the subject of the sign shall conform to State Statute and regulation.

Section 7.6 Signs in Residential, Conservation and Shoreline Districts

The following signs are permitted when located on the immediate property:

- A. One professional or home occupation sign, not exceeding four square feet
- B. One temporary real estate sign, not exceeding six square feet
- C. Signs identifying any non-residential building or use permitted in residential districts, not exceeding a total of twenty square feet
- D. Directional or information sign, not exceeding four square feet
- E. Signs necessary for public safety or welfare

Section 7.7 Signs in Commercial, Village and Industrial Districts

The following signs are permitted when located on the immediate property:

- A. Signs up to a total of fifty square feet are permitted as long as the Administrative Officer judges them to be in compliance with Sections 7.1 and 7.2
- B. Any sign proposal in excess of fifty square feet shall require Conditional Use Review

Section 7.8 Wall, Projecting, Ground and Roof Signs

Wall signs shall not exceed the highest point of the building's roof. Projecting signs shall not extend beyond the street line and/or not extend more than four feet from the building wall, shall not exceed eighteen feet in height above finished grade and not be less than ten feet above the surface of a public walkway area. Ground signs shall not exceed eighteen feet in height above the finished grade. Roof signs shall not exceed the highest point of the building's roof ridge.

Section 7.9 Computation of Permissible Outdoor Signs Area

When computing the total permissible sign area for any use:

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

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. 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. All uses listed in (A) above shall be subject to those criteria of conditional use review and any other portion of these regulations that pertain to those aspects that may be regulated.

- C. Agriculture and Forestry: Pursuant to 24 V.S.A. §4413, these regulations do not apply to accepted agricultural and silvacultural practices, including the construction of farm structures, as defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation.
- (1) A farmer operator intending to build or extend a farm structure shall notify the Zoning Administrator, using a standard permit which shall be recorded in the Town Land Records.
 - (2) The permit application shall include a sketch of the proposed structure including setback distances from road and neighbors.
 - (3) The farm structure shall abide by the setbacks specified in the land use regulations unless they provide a written approval of lesser setbacks by the Secretary of Agriculture, Food and Markets.
 - (4) All farm structures within the Flood Hazard Overlay District shall comply with the requirements of the National Flood Insurance Program (see Article XI of these regulations).
 - (5) The town may report violations of accepted agricultural or silvacultural practices to the appropriate state authorities for enforcement.
- D. Hunting: Pursuant to 24 V.S.A. §4413(e), these regulations shall not restrict hunting, fishing and trapping.
- E. 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) and further specified in these regulations at §5.29(D).

Section 9.2 Zoning Permit

- A. Except as specifically exempted in Section 9.1 and 9.3 of these regulations or in the Act, no land development shall commence without a zoning permit issued by the AO as provided in the Act.
- C. No zoning permit may be issued by the AO except in conformance with these regulations, the provisions of the Act and the following:
1. No zoning permit shall be issued by the AO for any development that requires the approval of an AMP until such approval has been obtained.
 2. No zoning permit shall be issued by the AO for development on a lot for which subdivision approval is required until such approval has been obtained and the plat has been properly recorded.
 3. No permit for development within the Flood Hazard Overlay District shall be issued by the AO until the 30-day comment period required by state law has elapsed.
- D. The AO shall not issue a permit or take action to submit it to an AMP 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 AO; all fees, site plans, plat plans, and required supplementary information
- E. The AO 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.

- F. 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 AO 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.
- G. 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 AO 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.
- H. The AO may declare a zoning permit invalid upon finding that the application contained any misrepresentation or material inaccuracies.
- I. Within 30 days after submission of a complete application for a zoning permit, the AO 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 an AMP in which case the AO 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.
- J. Failure by the AO to take action on a permit application within 30 days of receiving an application that is deemed complete shall result in the permit being deemed approved.
- K. 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 appropriate municipal panel is complete and the time for appeal to the Environmental Court has passed without an appeal being filed (Section 10.2)
 - 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 10.2)

Section 9.3 Certificate of Occupancy

It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, unless a Certificate of Occupancy has been issued therefore by the Administrative Officer stating that the proposed use of the land or structure conforms to the approved plans and specifications and the requirements and provisions of these Bylaws. Does not apply to an accessory building.

1. 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:
 - A. 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.
 - B. A residential terrace, patio, steps, handicapped ramp or deck smaller than 144 square feet at the ground level.
 - C. 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.
 - D. A pond provided the pond does not affect drainage on other properties.
 - E. Small above ground swimming pools which are three feet or less in depth.
 - F. 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.

2. Setback Exemptions. The following enumerated structures shall be exempt from setback requirements:
 - A. Boat Launches, Docks, Boat Hoists, Steps and any necessary structure to allow access to Lake Champlain, Fences and Signs.

Section 9.4 Certificate of Compliance

Upon request or as specified in these regulations, the AO may issue a Certificate of Compliance stating whether a parcel of land has any outstanding violations or permits. the AO 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 9.5 Conditional Uses

In any district, a conditional use may be permitted, enlarged or altered only upon approval of the Zoning Board, after public notice and public hearing and after determination that the proposed use will conform to the standards specified in these bylaws. The Zoning Board 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.

- A. General Standards: The Zoning Board shall determine that the proposed use will not adversely affect:
 1. The capacity of existing or planned community facilities.
 2. The character of area affected.
 3. Traffic on the roads and highways in the vicinity.
 4. The Town Plan and bylaws in effect.

5. Utilization of renewable energy resources.
 6. The appropriate use or development of adjacent property.
- B. Specific Standards: In permitting a conditional use, the Zoning Board may impose, in addition to the standards expressly specified by this Bylaw, 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.

Section 9.6 Nonconformities

- (A) A lawfully developed nonconforming lot:
- (1) May continue in its current use and configuration.
 - (2) May, after receiving a permit from the AO, 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 AO, have a new structure built upon it if such a structure meets the district standards for the district in which it is located.
 - (4) May not be converted to any other use allowed in the district in which it is located or change its configuration in any way other than as specified above without a waiver issued by the zoning board of adjustment in accordance with Section 9.5. The zoning board shall only allow a conversion that does not increase the degree of nonconformity of the lot as defined in Section 2.2 of these regulations.
- (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 Section 2.2 of these regulations.
 - (2) May be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of nonconformity that existed prior to the damage, and provided that the reconstruction commences within 2 years and is completed within 4 years of the date the damage occurred.
 - (3) May be structurally enlarged, expanded or moved, after receiving a permit from the AO, provided that the degree of nonconformity is not increased.

- (4) May, subject to conditional use approval by the zoning board of adjustment under Section 9.5, 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 under Section 9.5 and finding that reasonable effort is being made to reinstate the use, the zoning board of adjustment may allow a nonconforming use in a structure that was damaged by any cause to be discontinued for additional one-year periods. A non-conforming use may be re-instated in part of a structure damaged by any cause for a period of up to three years if the use had continued to be carried out in an undamaged portion of the structure.
 - (4) Shall not be converted to another nonconforming use without conditional use approval under Section 9.5. The zoning board of adjustment 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 by any means whatsoever, except with the approval of the zoning board of adjustment subject to conditional use approval under Section 9.5.
 - (6) Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure if such action does not increase the degree of nonconformity.

With regard to non-conforming uses and non-complying structures, the Zoning Board may make findings, hold hearings and attach conditions as deemed necessary.

ARTICLE X ADMINISTRATION AND ENFORCEMENT

Section 10.1 Administration and Enforcement

An Administrative Officer (AO) 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 AO 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 AO is subject to any personnel policies legally adopted by the town. After consultation with the Planning Commission, the Selectboard may remove the AO at any time for cause.

C. The AO shall literally enforce the provisions of these regulations and in doing so shall inspect developments, maintain records and perform all the following duties:

1. Issue Permits: Issue permits for 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 of 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 AO and keep records of all actions taken pursuant to these regulations.
7. Forward completed applications to the appropriate municipal panel (AMP) as necessary and required.
8. Post and mail notices of public hearing and decisions for all permits as detailed in these regulations.
9. Initiate enforcement actions under these regulations.
10. Other Duties: Carry out other duties as apparent or as assigned by the Planning Commission.

D. The AO will coordinate a unified effort for the Town of Ferrisburgh in administering its development review programs. The AO will provide applicants with all forms required to obtain permits or approvals under these bylaws and should assist applicants in navigating the town's regulatory process. The AO 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 AO are appealed to the Zoning Board of Adjustment, the AO shall not:

1. Serve as clerk for the Zoning Board of Adjustment
2. Take minutes for the Zoning Board of Adjustment; or,
3. Draft decisions for the Zoning Board of Adjustment

F. Deeming Applications Complete: The AO shall receive all applications for development review and appeals, except for appeals of a decision or act of the AO, and review them for completeness as specified below:

1. The applicant shall submit to the AO at least 25 days prior to the regular meeting of the AMP one original and at least three copies of those materials required by the provisions of these regulations or any application forms approved by the AMP for the type of action requested.

2. The AO 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 AO shall not schedule a public hearing on an application until the AO has determined that the application is complete.

G. The Planning Commission may nominate and the Selectboard may appoint an acting administrative officer who shall have the same duties and responsibilities as the AO in the AO's absence or when the AO has a conflict of interest.

Section 10.2 Appropriate Municipal Panels

A. Three bodies constitute appropriate municipal panels in Ferrisburgh, the Planning Commission (PC), the Zoning Board of Adjustment (ZBA), and the Selectboard. The appropriate municipal panel (AMP) shall be responsible for conducting quasi-judicial reviews of specific types of applications as specified in these regulations. The 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. AMPs may call upon advisory committees or commissions, such as the Ferrisburgh Conservation Commission, to provide advice on applications and other assistance with their duties as provided in 24 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 Section of 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 AO 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 five years and amend as necessary.
2. As needed, prepare and amend these regulations, and any bylaws, ordinances and other regulations permitted under the Act.
3. Resolve any disputes regarding the interpretation of district boundaries on the Official Zoning Map.
4. Nominate an Administrative Officer as per Section 10.1 of these regulations.
5. Serves as the appropriate municipal panel to:
 - a. Hear and grant or deny approval for planned unit development applications as set forth in Section 5.22 of these regulations.
 - b. Hear and grant or deny approval for subdivision applications as set forth in the Town of Ferrisburgh Subdivision Regulations.
 - 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 as set forth in Section of these regulations.
6. Undertake capacity studies.
7. Undertake site plan reviews
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 Zoning Administrator as per Section 10.5 of these regulations.
2. Hear and grant or deny requests for variances as per Section 10.6 of these regulations.
3. Hear and grant or deny conditional use approvals as per Section 9.5 of these regulations.
4. Hear and grant or deny requests for waivers, except those associated with PUD or subdivision applications, as per Section 10.7 of these regulations.
5. Any other form of land use regulation for which the ZBA is the appropriate municipal panel as authorized by these regulations.

Section 10.5 Appeals of AO Actions or Decisions

Pursuant to Section 4465 of the Vermont Planning and Development Act, an interested person may appeal actions and decisions of the Administrative Officer to the Zoning Board of Adjustment, which shall conduct hearings on appeals.

A. **Deadline to Appeal.** An appeal taken with respect to an act or decision of the AO 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 secretary of the zoning board of adjustment or with the Town Clerk. The following information shall be included as part of the submittal:

1. A copy of the original application and the written decision of the AO;
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 AO will inform the applicant that an appeal has been filed and advise the applicant that the project cannot commence until the appeal has been decided as per Section 9.2(K) of these regulations.

D. **Public Hearing and Notice.** The zoning board of adjustment shall hold a public hearing on a notice of appeal within 60 days of its filing. The hearing must be warned as per Section of these regulations 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 zoning board of adjustment 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 AO and Town Clerk.

Section 10.6 Variances

On appeal wherein the relief requested by the applicant is a variance from the provisions of these bylaws or for a structure which is not primarily a renewable energy resource structure, the Zoning Board 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:

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 10.7 Waivers

- A. The AMP may grant applicants waivers to zoning district dimensional standards 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 Section 10.6 of these regulations.
- B. Application Procedure. The steps to be taken to file and review a request for a waiver are the same as those 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 AO at least 25 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. §4302.
 - 3. The waiver requested is designed to conform to the character of the land use area in which the property is located as defined in the Ferrisburgh Town Plan and further designed to reasonably limit impact or the potential for impact upon neighbors.

4. The waiver being requested is a reasonable request and would not result in development or use of property that would offend the sensibilities of the average person.

Section 10.8 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 zoning board for adaptive reuse of an agricultural structure shall be reviewed under the standards of Section 9.5.

Section 10.9 Fees

The Board of Selectmen shall, by resolution, establish and from time to time amend 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 Zoning Board 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 10.10 Penalties

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

ARTICLE XI FLOOD HAZARD AREA REGULATIONS

Section 11.1 Statutory Authorization

To effect the purposes of 10 VSA Chapter 32 and in accord with the Vermont Planning and Development Act, 24 VSA, Chapter 117 Section 4405, 4407(9), 4410 or 4412, there are hereby established zoning regulation for areas of special flood hazard in the town of Ferrisburgh.

Section 11.2 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard, and to minimize losses due to floods by:

- A. Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood or cause excessive increase in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction;

- C. Protecting individuals from buying lands that are unsuited for their intended purposes because of flood hazard.

Section 11.3 Lands to Which These Regulations Apply

These regulations shall apply to all lands in the Town of Ferrisburgh identified as areas of special flood hazard on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), dated September 18, 1986, and any revisions thereto.

Section 11.4 Official Flood Hazard Area Map

The Official Flood Hazard Area Map shall consist of the FEMA Flood Insurance Study, including the Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway Maps. The Official Flood Hazard Area Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be part of these regulations.

Section 11.5 Interpretation of District Boundaries

The Administrative Officer shall determine the boundaries of any designated area of special flood hazard by utilizing the base flood elevation data contained in the Flood Insurance Study or, in the absence of such data, by obtaining, reviewing, and reasonably utilizing any base flood elevation data available from a federal or state agency. Appeals with respect to a boundary interpretation shall be made by filing a notice with the Secretary of the Zoning Board within fifteen days of the decision or act.

Section 11.6 Permitted Uses

Upon issuance of a permit by the Administrative Officer, the following open space uses shall be permitted within the area of special flood hazard to the extent that they are not prohibited by any other ordinance and provided that they do not require the erection of structures or the storage of materials and equipment, the borrowing of fill from outside the flood hazard area, or channel modification or relocation, and do not obstruct flood flows, affect the water-carrying capacity of the regulatory floodway or channel, or increase offsite flood damage potential.

- A. Agricultural uses, such as general farming, pasture, orchard grazing, outdoor plant nurseries, truck farming and forestry.
- B. Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites.
- C. Accessory residential uses, such as lawns, gardens, parking areas and play area.

Section 11.7 Conditional Uses

All new construction, substantial improvement and development uses prescribed by the Town of Ferrisburgh Zoning ordinance that do not meet the requirement of Section 11.6 and fall within the designated area of special flood hazard are permitted only upon the granting of a conditional use permit by the Zoning Board in accordance with the procedures and requirements of Section 11.10, 11.11 and 11.12 of these regulations.

Section 11.8 Permit Requirements and Application Procedures

Permits are required for all proposed new construction, substantial improvements and other developments, including the placement of manufactured homes, within all lands to which these regulations apply.

All zoning permit applications shall be submitted to the Administrative Officer, on forms furnished by this Officer, who shall determine, on application, whether or not the proposed development is located within the area of special flood hazard by the procedures established in Section 11.5 of these regulations.

If the proposed use will be located in the areas of special flood hazard and meets the requirements of Section 11.6 of these regulations, the administrative officer shall issue a permit. If the proposed use does not meet the requirements of Section 11.6, the Administrative Officer shall refer all applicants to the Secretary of the Zoning Board.

Section 11.9 Records

The Administrative Officer shall maintain a record of:

- A. the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures and whether or not such structures contain a basement; and
- B. the elevation, in relation to mean sea level, to which such structures have been flood proofed.

Section 11.10 Conditional Use Review Procedures

- A. Upon receiving an application for a conditional use permit under these regulations, the Zoning Board shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant:
 - 1. Base flood elevation data for all subdivisions and other proposed new developments greater than 5 lots or 5 acres, whichever is the smaller;
 - 2. The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
 - 3. Where flood proofing is proposed in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement will be flood proofed;
 - 4. Certification from a registered professional engineer or architect that the designed and proposed method of construction of buildings to be flood proofed is in accordance with accepted standards of practice for meeting the flood proofing criteria of Section 11.12.L.1 of these regulations
 - 5. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- B. In addition, the Zoning Board shall require such of the following information as it deems necessary for determining the suitability of the particular site for the proposed use:
 - 1. Plans in triplicate, drawn to scale, showing the location, dimensions, contours and elevation of the lot; the size and location on the site of existing or proposed

- structures, fill or storage of materials; the location and elevations of streets, water supply and sanitary facilities; and the relation of the above to the location of the channel, floodway and base flood elevation.
2. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel and cross-sectional areas to be occupied by the proposed development.
 3. A profile showing the slope of the bottom of the channel or flow line of the stream.
 4. Specifications for building construction and materials, flood proofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel improvement, storage of materials, water supply and sanitary facilities.
- C. In unnumbered A zones, the Zoning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for approval of all land development under Section 11.12.
 - D. The Zoning Board shall notify adjacent communities and the Vermont Department of Water Resources prior to approval of an alteration or relocation of a watercourse and shall submit copies of such notifications to the FEMA Administrator.
 - E. The Secretary of the Zoning Board shall transmit one copy of the information required by subsections 910(1) and 910(2) to the Vermont Department of Water Resources in accordance with 24 VSA Section 4409(c)(2)(A).
 - F. In reviewing each application, the Zoning Board shall consider the evaluation of the Vermont Department of Water Resources and shall determine that the proposed use will conform to the development standards of Section 912 of these regulations.
 - G. In accordance with 24 VSA, Section 4409(C)(2)(A), no permit may be granted for new construction or the development of land in any area designated as a flood plain by the Vermont Department of Water Resources prior to the expiration of a period of thirty days following the submission of a report to the Vermont Department of Water Resources under Section 910(5) above.

Section 11.11 Considerations by the Zoning Board

- In reviewing each application, the Zoning Board shall consider:
- A. The danger to life and property due to increased flood heights or velocities caused by encroachments;
 - B. The danger that materials may be swept onto other lands or downstream to the injury of others;
 - C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under conditions of flooding;
 - D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - E. The importance of the services provided by the proposed facility to the community;
 - F. The necessity to the facility of a waterfront location;
 - G. The availability of alternative locations not subject to flooding for the proposed use;
 - H. The compatibility of the proposed use to existing development and development anticipated in the foreseeable future;

- I. The relationship of the proposed use to the proposed comprehensive plan, insofar as it has been developed;
- J. The safety of access to the property in times of flood of ordinary and emergency vehicles;
- K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- L. The costs of providing governmental and public facilities and services during and after flooding;
- M. Such other factors as are relevant to the purposes of this ordinance.

Section 11.12 Conditions Attached to Conditional Use Approval

As a condition of approval, the Zoning board shall specifically require that:

- A. All new construction or substantial improvement of any residential structure shall have the first floor and basement floor elevated to or above the base flood elevation;
- B. All new construction or substantial improvement of nonresidential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation, or be flood proofed below the base flood level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy;
- C. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be either certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; the bottom of all openings shall be no higher than one foot above grade; openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters:
- D. Structures shall be (1) designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure during the occurrence of the base flood, (2) be constructed with materials resistant to flood damage, (3) be constructed by methods and practices that minimize flood damage, and (4) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood;
- F. All new and replacement water supply systems shall be designed so as to minimize or prevent the infiltration of flood waters into the system;
- G. All new and replacement sanitary sewage systems shall be designed and located so as to minimize or prevent the infiltration of floodwaters into the systems and discharges from the systems into the floodwaters;

- H. All onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding
- I. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation;
- J. All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law;
- K. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained;
- L. All land development shall be reasonably safe from flooding and that;
 1. All public utilities and facilities serving subdivisions, such as sewer, gas, electrical and water systems be located and constructed to minimize or eliminate flood damage, and;
 2. Adequate drainage be provided within subdivisions to reduce exposure to flood hazards.
 3. Upon consideration of those factors in Section 11.11, and the purposes of these regulations, the Zoning Board shall attach such additional conditions to the granting a permit as are necessary to meet the purposes and flood hazard area management requirements of these zoning regulations.

Section 11.13 Time for Acting on Application

The Zoning Board shall hold a properly warned hearing within 30 days of receiving an application, and shall act on such application in a manner described in Section 11.11 and 11.12 within 30 days of the final hearing, subject to the limitations of Section 11.10(G) of these regulations.

A copy of the public notice shall be mailed to the applicant at least 15 days prior to the hearing date.

Section 11.14 Issuance and Transmission of Permits

Upon granting a permit, the Zoning Board shall send to the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every person appearing and having been heard at the hearing, to the Administrative Officer, who shall forthwith issue a permit, and to the Town Clerk as a part of the public records.

Section 11.15 Effective Date

A permitted use permit shall take effect 15 days from the date of issuance.

Conditional use permits shall take effect upon adjudication by the Zoning Board.

Section 11.16 Appeals

An interested person, as defined in 24 VSA, Section 4464(b), may appeal a decision of the Zoning Board to the Environmental Court in accordance with the provisions of 24 VSA Section 4471.

Section 11.17 Variances

Variances shall be granted by the Zoning Board only:

- A. In accordance with the provisions of 24 VSA Section 4468

- B. Upon a determination that during the base flood discharge the variance will not result in increased flood levels in the designated regulatory floodway, threats to public safety, extraordinary public expense or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances

The Secretary of the Zoning Board shall notify the applicant that the issuance of a variance to construct a structure below the base flood level:

- A. Will result in increased premium rates for flood insurance commensurate with the resulting increase in risk up to amounts as high as \$25 for \$100 for insurance coverage
- B. Increase risks to life and property.

Section 11.18 Fees

The Board of Selectmen shall establish such fees as may be necessary for the filing of notices and the processing of hearings and action thereon. All such fees shall be paid to the Secretary of the Zoning Board upon application for a conditional use permit under these regulations.

Section 11.19 Warning of Disclaimer of Liability

These bylaws do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability of the part of the town of Ferrisburgh or any town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 11.20 Precedence of Bylaws

The provisions of these bylaws shall take precedence over any conflicting and less restrictive local laws.

Section 11.21 Annual Report to Federal Emergency Management Agency

The Administrative Officer shall, to the extent possible, submit to the FEMA Administrator the information required by the FEMA annual report form with respect to the administration and enforcement of these flood hazard area bylaws.

A copy of the annual report shall be submitted to the state coordinating agency.

Section 11.22 Definitions

ADMINISTRATOR: The Federal Emergency Management Administrator

AREA OF SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area includes all A zone designations on the FIRM, or, in the absence of the FIRM, on the FHBM. It does not include Zones B and C.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

DEVELOPMENT: The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or land fill, and any change in the use of any building or other structure, on land, or extension of use of land.

FEMA: Federal Emergency Management Agency

FHBM: Flood Hazard Boundary Map. An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A **FHBM** is issued before the **FEMA** has conducted a flood study of the community.

FIRM: Flood Insurance Rate Map. An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community, a **FIRM** is issued after the **FEMA** has conducted a flood study of the community.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODPROOFED or FLOODPROOFING: Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

MOBILE HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION: A parcel of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION: Structures commenced on or after the effective date of this ordinance.

STRUCTURE: An assembly of materials for occupancy or use, including but not limited to a building, manufactured home or trailer, billboard, sign, wall or fence, except a wall or fence on an operating farm.

START OF CONSTRUCTION: See FEMA definition in Section 1909.1 of the current National Flood Insurance program rules and regulations.

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

ARTICLE XII TELECOMMUNICATION FACILITY AND TOWER REGULATIONS

Section 12.1 Purpose

The purpose of this bylaw is to protect the public health, safety and general welfare of the citizens of the Town of Ferrisburgh, and those who visit this community, while accommodating the communication needs of residents and businesses. This Zoning Bylaw shall:

- A. Preserve the character and appearance of the Town of Ferrisburgh while allowing adequate telecommunications services to be developed.
- B. Protect the scenic, historic, environmental and natural resources of the Town of Ferrisburgh and property values therein.
- C. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification and removal of telecommunications facilities and towers.
- D. Minimize tower and antenna proliferation by requiring the sharing of existing communications facilities towers and sites where possible and appropriate.
- E. Facilitate the provision of telecommunications services to the residences and businesses of the Town of Ferrisburgh.
- F. Minimize the adverse aesthetic, health and interference effects of towers through careful design and siting standards.
- G. Require, through performance standards, the location of towers and antennas in non-residential areas and away from other sensitive areas such as schools, hospitals, senior centers and child care facilities.

Section 12.2 Agreement with Federal Law

In addition to any other findings which may be required by this Zoning Bylaw, the Zoning Board must also specifically consider whether any of its decisions regarding a permit application are pre-empted by federal law, particularly the Telecommunications Act of 1996. This Zoning Bylaw is not intended to:

- A. Prohibit or have the effect of prohibiting the provision of personal wireless services in Ferrisburgh;
- B. Unreasonably discriminate among providers of functionally equivalent personal wireless service facilities;
- C. Regulate personal wireless services on the basis of the environmental effects of radio frequency emission, to the extent that the regulated services and facilities comply

with the Federal Communications Commission (FCC) regulations concerning such emissions.

Section 12.3 Exemptions

The following telecommunications facilities are exempt from the requirements of this Zoning Bylaw: police, fire, ambulance and other emergency dispatch; amateur (ham) radio, citizens-band radio, single-use local business radio dispatch and television and radio antennas for home use.

No FCC-licensed telecommunications facilities other than those mentioned above shall be considered exempt from this Zoning Bylaw for any reason, whether or not said facility is proposed to share a tower or other structure with such exempt uses.

Section 12.4 Definitions

In addition to those definitions found in Article II, the following terms shall, for the purposes of implementing Article XII only, have the following definitions:

ADEQUATE CAPACITY: Capacity is considered to be adequate if the grade of service is p.05 or better for at least 50 percent of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

ADEQUATE COVERAGE: Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment like Ferrisburgh, this would be a signal strength of at least -90 dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

AFFILIATE: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, and agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

ANTENNA: A device for transmitting and/or receiving electromagnetic waves which is attached to a tower or other structure.

ANTENNA HEIGHT: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is

on a sloped grade, then the average between the highest and lowest grades shall be used in determining the grade for calculating the antenna height.

ANTENNA SUPPORT STRUCTURE: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

APPLICANT: A person who applies for a telecommunications facility siting. An applicant must be the telecommunications provider or its agent of record.

AVAILABLE SPACE: The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

BASE STATION: The primary sending and receiving site in a telecommunications facility network.

BLANKET INTERFERENCE ZONE: The area defined or identified by the FCC as being affected by radio frequency interference.

BULLETIN 65: Published by the Federal Communications Commission (FCC) Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.

CELLULAR TELECOMMUNICATIONS: A commercial Low Power Mobile Radio Service bandwidth licensed by the FCC to telecommunication providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

CHANNEL: The segment of the radiation spectrum to or from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

COLLOCATION: Locating wireless communications equipment from more than one provider in a single site.

COMMON CARRIER: An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated rates.

dBm: Unit of measure of the power level of an electromagnetic signal at the input of a receiver, given its antenna system gain at a particular frequency, expressed as decibels (dB) above one milliwatt. Signal predictions with this measure are valid at a particular frequency, and ambiguous unless all receivers and antenna combinations are identical.

FCC: Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

FCC 97-303: A Report and Order which sets new national standards for exposure to radio frequency emissions from FCC-regulated transmitters.

FREQUENCY: The number of cycles completed each second by an electromagnetic wave measured in hertz (Hz).

GHz: Gigahertz. One billion hertz.

HERTZ: (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

INTERFERENCE: An undesirable effect caused by electromagnetic signals. Type 1 interference refers to interference regulated by the FCC and affecting other FCC licensees or other entities over which the FCC has jurisdiction. Type 2 interference refers to electromagnetic disturbances to business, institutional, medical and home electronic equipment.

MHz: Megahertz, or one million hertz.

MICROWAVE: Electromagnetic radiation with frequencies approaching 1,000 MHz, including UHF, extending to infrared frequencies; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

MICROWAVE ANTENNA: A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice data.

MODIFICATION OF AN EXISTING FACILITY: Any change, or proposed change, in power input or output, number of antennas, change in antenna type(s) or model(s), repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit.

MODIFICATION OF AN EXISTING TOWER: Any change, or proposed change, in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment.

MONITORING: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure at a site as a whole, or from telecommunications facilities, towers, antennas or repeaters.

MONITORING PROTOCOL: The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which

is to be used to monitor the emissions and determine exposure risk from existing and new telecommunications facilities.

MONOPOLE: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

PERMITTEE: An applicant and his successors and assigns who is granted a telecommunications tower or facility conditional use permit.

RADIAL PLOTS: Radial plots are the result of drawing equally-spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial. A threshold plot uses a mark to indicate whether that point would be strong enough to provide adequate coverage- i.e., the points meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

REPEATER: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service at areas which are not able to receive adequate coverage directly from a base or primary station.

ROOF AND /OR BUILDING MOUNT FACILITY: A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a structure face.

SCENIC VIEW: A scenic view is a wide angle or panoramic field of sight and may include natural an/or manmade structures, and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway or path. A view may be to a faraway object, such as a mountain, or a nearby object.

SITE: A property or any part or interest thereof, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facility(s) and required landscaping are located.

SITE LOCATION: References to site location shall be the exact longitude and latitude, to the nearest tenth of a second. Bearing or orientation should be referenced to true North.

SPECTRUM: Relating to any transmissions or reception of electromagnetic waves.

STRUCTURALLY ABLE: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonably predictable conditions as determined by professional structural engineering analysis.

TELECOMMUNICATIONS EQUIPMENT SHELTER: A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

TELECOMMUNICATIONS FACILITY: All equipment (including repeaters) with which a telecommunications provider broadcasts and receives the radio frequency waves which carry their services and all locations of said equipment or any part thereof, and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s).

TELECOMMUNICATIONS FACILITY SITE: A property, or any part thereof or interest therein, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facility(s) and where required landscaping are located. It shall meet minimum lot size and regulations for the zone in which it is to be located.

TELECOMMUNICATIONS PROVIDER: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

TELECOMMUNICATIONS TOWER: A guyed, monopole or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electronic communication.

TELECOMMUNICATIONS TOWER OR FACILITY CONDITIONAL USE PERMIT: An official action taken pursuant to Article XII of the Ferrisburgh Zoning Bylaws, as amended, which sets forth the land use rights and obligations extended by Ferrisburgh to an applicant to own, construct, maintain and operate a telecommunications facility or tower or antenna support structure within the boundaries of Ferrisburgh.

TEMPORARY WIRELESS TELECOMMUNICATIONS FACILITIES: Any tower, pole, antenna, etc. designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

TILED COVERAGE PLOTS: Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over the area of interest, usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for comparative analysis.

TOWER: A lattice structure or framework, either self-supporting or guyed, or monopole, that is designed to support telecommunications antennas, and/or equipment.

VIEW CORRIDOR: A three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

Section 12.5 Telecommunications Tower or Facility Conditional Use Permits

No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without a Telecommunications Tower or Facility Conditional Use Permit first being obtained from the Zoning Board in accordance with the requirements of Article XII of the Ferrisburgh Zoning Bylaws, as amended.

Telecommunications towers or facilities may be permitted as conditional uses in all zoning districts upon a finding by the Zoning Board that no adverse affect will occur.

An applicant for a telecommunications tower or facility conditional use permit shall be a provider. A conditional use permit shall be granted only for a telecommunications facility with a user that has a current FCC license.

In addition to information otherwise required by the Town of Ferrisburgh's Zoning Bylaws, applicants for telecommunications towers or facilities shall include the following supplemental information or documents:

- A. The exact legal name, address, and telephone number of the applicant, the land owners of record, and any agents of the landowners or applicants and the identify of any person or entity who will own the telecommunications facility or any portion of it. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided, as well as an applicant's registered agent and registered office.
- B. The name, address and telephone number of the contact person who has authority to act on behalf of the permit applicant. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant. If this person cannot be contacted in the event of an emergency, the applicant shall also provide the name, address, and telephone number of someone who is available on a 24-hour basis who is authorized to act on behalf of the applicant in the event of an emergency regarding the structure or safety of the telecommunications facility.

- C. Owner of the property on which the proposed tower shall be located and the owner(s) of the tower or structure on which the proposed transmitter shall be located. Written permission of the owner(s) to apply for a conditional use permit shall also be submitted along with written permission from the owner(s) of the proposed property(ies) or facilities site(s) for the Town's independent consultant(s), to conduct any necessary site visit(s).
- D. The names and addresses of the landowners of record of all abutting property.
- E. A report from qualified and Vermont licensed professional engineers that:
1. Describes the facility, height, design and elevation.
 2. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas.
 3. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate.
 4. Describes the output frequency, number of channels and power output per channel for each proposed antenna. An RF (radio frequency) engineer should provide this information.
 5. Provides evidence of need as described in Section 12.7.
 6. Demonstrates the tower's compliance with the municipality's structural standards and setbacks for towers and structures.
 7. Provides proof that at the proposed site the applicant will be in at least minimum compliance with all federal, state and local regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain such compliance regarding both radio frequency interference (RFI) and radio frequency radiation (RFR).
 8. For each antenna, describe the antenna gain (projected and maximum), polarization and radiation pattern (composite pattern for an antenna array), the power input to antenna(s), including power input in normal use and at maximum output for each antenna and all antennas as an aggregate.
 9. Describe the output frequency of the transmitter(s).
 10. For a telecommunications facility with multiple transmitters describe the results of an inter-modulation study which contains the predicted interaction of the additional equipment with existing equipment.
 11. Include other information required by the Zoning Board that is necessary to evaluate the request and its impact upon the health and safety of the residents of Ferrisburgh.
- F. A letter of intent committing the tower owner and users and successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provision of this bylaw.

- G. For any applicant requesting the installation of a telecommunications facility on an existing structure, a copy of a letter of intent or executed contract with the owner of the existing structure.
- H. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed telecommunications facility.
- I. A copy of the application and all attachments, for an Act 250 permit, if it has been filed with the District Environmental Commission.

Section 12.6 Site Plan Requirements

Permit requirements for telecommunications facilities and towers shall include a site plan, which shall include the following supplemental information:

- A. Location Map: A copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site. It shall indicate the tower location and the exact latitude and longitude (degrees, minutes, seconds to the nearest tenth).
- B. Vicinity Map: A map at a scale of 1 inch = 416 feet (1:5000) with contour intervals no greater than 10 feet (3 meters) showing the entire vicinity within a 2500 foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all access easements or rights of way needed for access from a public way to the tower, and the names of all abutters or property owners along the access easement or who have deeded rights to the easement.
- C. Telecommunications Facility Site Map: A recent survey of the telecommunications facility site at a scale no smaller than 1 inch = 40 feet (1:480 or metric equivalent 1:500), showing horizontal and radial distances of antenna(s) to the nearest point on the property line, and to the nearest dwelling.
- D. Existing Conditions Plan: A recent survey of the area within 500 feet of the tower site at a scale no smaller than 1 inch = 40 feet (1:480 or metric equivalent 1:500) with topography drawn with a minimum of 5 feet (1.5 meter) contour intervals, showing existing utilities, property lines, existing buildings or structures, stone walls or fence lines, wooded areas, existing water wells and springs. It shall show the boundary of any wetlands or flood plains or watercourses, and of any bodies of water included in the Official Flood Hazard Area within 500 feet from the tower or any related facilities or access ways or appurtenances. The survey plan must have been complete, on the ground, by a Vermont-registered land surveyor no more than two years prior to the application date.

- E. Proposed Site Plan: a proposed site plan of the entire telecommunications facility site, indicating all improvements, including landscaping, utility lines, guy wires, screening and roads at the same scales or larger than the Existing Conditions Plan. The site plan shall include the following:
1. Proposed tower location and any appurtenances, including supports and guy wires, if any, and any accessory building (telecommunications facility or other). It shall indicate property boundaries and setback distances to the base(s) of the tower and the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements. Where protective fencing is proposed, it shall indicate setback distances from the edge of the fencing.
 2. Proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the corners of all appurtenant structures.
 3. Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility, telecommunications lines, and whether underground or above ground.
 4. Any direct or indirect wetlands alteration proposed.
 5. Detailed plans for drainage of surface and sub-surface water, to control erosion and sedimentation both during construction and as a permanent measure.
 6. Plans indicating locations and specifics of proposed screening, landscaping, grading, ground cover, fencing, exterior lighting, signage and any additional information that may be required.
 7. Plans of proposed access driveway or road way and parking area at the tower site. This shall include grading, drainage and traveled width. This shall also include a cross-section of the access drive indication the width, depth of gravel, paving or surface materials.
 8. Plans showing any changes to be made to an existing telecommunications facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking or other infrastructure as a result of a proposed modification of the facility.
- F. Proposed Tower and Appurtenances
1. Plans, elevations, sections and details at appropriate scales but no smaller than 1 inch = 10 feet.
 2. Details of proposed tower foundation, including cross-sections and details. This shall show all ground attachments, specifications for anchor bolts and other anchoring hardware.
 3. Details proposed exterior finish and color of the tower.
 4. The relative height of the tower to the tops of surrounding trees as they presently exist, and the height to which they are expected to grow in 10 years.
- G. Plans of Proposed Communications Equipment Shelter, including;
1. Floor plans, elevations and cross-sections at a scale of no smaller than ¼ inch = 1 foot (1:48) of any proposed appurtenant structure, and

2. Representative elevation views, indicating the roof, facades, doors, and other exterior appearance and materials.

H. Proposed Equipment Plan

1. Plans, elevations, sections and details at appropriate scales but no smaller than 1 inch = 10 feet.
2. Number of antenna and repeaters, as well as the exact locations of antenna(s) and of all repeaters (if any) located on a map, as well as by degrees, minutes, and seconds to the nearest tenth of latitude and longitude.

I. Visibility Maps and Visual Analysis:

1. A map of view corridors in a zero to two mile radius from the site, shown beginning at true north and continuing clockwise at forty-five degree intervals, showing a minimum of eight views.
2. A map of the Town of Ferrisburgh on which any visibility of the proposed tower from a public way (including all existing public rights-of-way) shall be indicated.
3. The applicant shall also develop and submit to the Zoning Board a written analysis of the visual impact of the proposed tower. This analysis shall include photographs of the balloon test, as described in Section 12.6.J taken from at least 10 different perspectives within Ferrisburgh.

J. Balloon Test:

Within thirty-five days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three-foot in diameter, brightly-colored balloon at the maximum height of the proposed tower and within fifty horizontal feet of the center of the proposed tower. The date, time and location of this balloon test shall be advertised by the applicant at least 7 days and not more than 14 days in advance of the test date in at least three newspapers in general circulation in the vicinity. The applicant shall inform the Ferrisburgh Zoning Board, the Planning Commission and abutting property owners in writing of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least six consecutive hours between 7 AM and 5 PM (and/or at least two hours before sunset as posted for the test dates by the National Weather Service) on the dates chosen. In the event of an application for co-location at an existing telecommunications facility, the applicant shall be exempt from this balloon test.

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

L. A copy of the information submitted as part of the conditional use permit application.

Section 12.7 Evidence of Need

- A. Existing Coverage: The applicant shall provide written documentation to the Zoning Board demonstrating that existing telecommunications facility sites in Ferrisburgh, in abutting towns and within a 30 mile radius of the proposed site cannot reasonably be made to provide adequate coverage and/or adequate capacity to areas lacking such coverage and/or capacity. The documentation shall include, for each telecommunications facility site listed which is owned or operated by the applicant,

the exact location (in longitude and latitude, to degrees, minutes and seconds to the nearest tenth), ground elevation, height of tower or structure, type of antennas, antenna gain, height of antennas on tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing telecommunications facility sites, including changes in antenna type, orientation, gain, height or power output shall be specified. Tiled coverage plots showing each of these telecommunications facility sites, as they exist, and with adjustments as above, shall be provided as part of the application.

- B. Repeaters: Applicant shall demonstrate with written documentation that they have analyzed the feasibility of repeaters in conjunction with all telecommunications facility sites listed in compliance with Section 12.7,A (above) to provide adequate coverage and/or adequate capacity to areas lacking such coverage and/or capacity. Tiled coverage plots of all repeaters considered for use in conjunction with these facilities sites shall be provided as part of the application.
- C. Indirect Service: Applicant shall demonstrate which portion of a tower or structure and which antennas, if any, are to reduce or eliminate reliance on land-lines, or otherwise provide telecommunications capability to the applicant, as opposed to providing direct service to customers, such provision of indirect service may be considered if reasonable alternatives are not available and the incremental effect is consistent with the purposes set forth in Section 12.1 of these Zoning Bylaws.
- D. Five-Year Plan: All applications shall be accompanied by a written five-year plan for the utilization of the proposed facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within the town.

Section 12.8 Legal and Technical Documentation

- A. Federal Permits: Applicant shall submit to the Zoning Board copies of all pertinent submittals and documents pertaining to: FCC permitting/licensing; Environmental Assessments and Environmental Impact Statements; FAA Notice of Construction or Alteration; aeronautical studies; all pertinent data, assumptions and calculations relating to service coverage; and all pertinent calculations and/or measurement data related to non-ionizing radiation emissions and exposure, regardless of whether categorical exemption from routine environmental evaluation under the FCC rules is claimed. Applicant shall also provide the following specifics;
 - 1. If any applicant is not a natural person, it shall also give the type of business entity and the state in which it is registered and in which its primary place of business is located.
 - 2. The person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant.
 - 3. The person to be contacted in the event of an emergency involving the facility. This should be someone available on a 24-hour basis who is authorized by the applicant to act on behalf of the applicant regarding an emergency situation.
 - 4. An emergency plan to be implemented in the event that the tower structure is deemed unsafe through inspection as described in Section 12.11,E. The plan shall

- include measures to warn abutting landowners of an unsafe situation, to evacuate a zone where injury or property damage may occur, and to notify local authorities.
5. The owner of the property on which the proposed tower shall be located, and of the owner(s) of the tower or structure on which the proposed facility shall be located. Written permission of the owner(s) to apply for a conditional use permit shall also be submitted along with written permission from the owner(s) of the proposed property (ies) or facilities site(s) for the Town's independent consultant(s) and authorized agents, to conduct any necessary site visit(s).
- B. Surety: Details of proposed method of financial surety as required in Section 12.9 (Landscaping/Screening) and (Removal Requirements) of these bylaws.

Section 12.9 General Project Requirements

- A. Access Road and Above Ground Utilities: Where new telecommunications towers and facilities require construction of, or improvements to, access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within existing forest or forest fringe areas, and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area.
- B. Landscaping/Screening: Screening shall be required at the perimeter of the site. A natural or planted vegetative screen of a minimum of 20 feet in depth and 6 feet in height shall be maintained at all times. Vegetation shall be of a type that has the potential to reach a height of at least 15 feet at maturity. Existing vegetation surrounding the site shall be preserved and maintained to the greatest extent possible. Applicant shall obtain a financial surety in an amount set by the Zoning Board to cover the cost of the remediation of any damage to the landscape which occurs during the clearing of the site.
- C. Fencing and Signs: The area around the tower and communication equipment shelter(s) shall be completely fenced for security to a height of six feet and gated. Use of razor wire is not permitted. A sign no greater than two square feet indicating the name of the telecommunication facility owner(s) and a 24-hour emergency telephone number, either local or toll-free, shall be posted adjacent to the entry gate. In addition, No Trespassing or other warning signs, and the federal tower registration plate, where applicable, may be posted on the fence or as required to meet federal requirements.
- D. Building Design: Communication equipment shelters and accessory buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.
- E. Height of Towers: New towers shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on the tower. Applicant may submit a request for additional height to accommodate future sharing, or to provide indirect service as described in Section 12.7,C and shall provide design information to justify such additional height. Repeaters shall not be closer than 25 feet to the ground.

- F. Tower Finish: New towers shall have a galvanized finish unless otherwise required. The Ferrisburgh Zoning Board may require the tower(s) to be painted or otherwise camouflaged to minimize the adverse visual impact.
- G. Tower Sharing: Tower(s) must be of a type which will maximize potential sharing. Lattice type structures are preferred, but where a monopole is required, applicant must demonstrate the future utility of such structure for expansion of service for applicant and other future applicants.

Section 12.10 Tower and Antenna Design Requirements

Proposed telecommunications facilities and towers shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor. Height and mass of telecommunications towers shall not exceed that which is essential for its intended use and public safety.

- A. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment, except in cases in which the Federal Aviation Authority (FAA), state or other federal authorities have dictated color.
- B. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Where there are no trees within 100 feet the height of the towers, antennas and tower-related fixtures shall not exceed that which is essential for its intended use and public safety. Notwithstanding the above, additional height may be approved upon a finding by the Zoning Board that the additional height is necessary in order to provide adequate coverage in the Town of Ferrisburgh or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.
- C. All buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Zoning Board) shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this bylaw. If the minimum setbacks in the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line shall be no less than the height of the tower, including antennas and other vertical appurtenances.
- D. Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

- E. Setback Requirements: No repeater shall be located closer than 300 feet to a dwelling, nor closer than 25 feet to the ground. No other telecommunications facility or tower, including guy-wire anchors and protective fencing, if any, shall be located:
1. Closer than 300 feet horizontally to any boundary of the site on which the tower is located, or the height of the tower whichever is greater.
 2. Closer than 1,500 feet horizontally to any structure existing at the time of application which is used as a primary or secondary residence, to the property of any school (both public and private), or to any other public building. Primary or secondary residences are those dwelling units that include toilet facilities, and facilities for food preparation and sleeping.
 3. Within the habitat of any state-listed rare or endangered wildlife or plant species.
 4. Within 300 feet horizontally of any Vermont or federally regulated wetland.
 5. Within the 300 feet horizontally of the outer riparian zone measured horizontally from any river or perennial stream.
 6. Within 1500 feet horizontally of any historic district or property listed on the state or federal register of historic places.
 7. Within 500 feet horizontally of any known archaeological site.
- F. An application for a new telecommunications tower shall not be approved unless the Zoning Board finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure.

Section 12.11 Monitoring Protocol

- A. Monitoring Protocol: The applicant shall, as a condition of receiving a Telecommunications Tower or Facility Conditional Use Permit, institute a monitoring protocol which will be approved by the Zoning Board as a part of the permitting process. The Planning Commission may, as technology changes, require or accept the use of testing protocol other than the Cobbs Protocol. A copy of the monitoring protocol shall be on file with the zoning administrator and the town clerk.
- B. Structural Inspection: Tower owner(s), as a condition of issuance of a Telecommunications Tower and Facility Conditional Use Permit, shall arrange for an independent consultant (a licensed professional structural engineer) to conduct inspection of the tower's structural integrity and safety. Guyed towers shall be inspected every three years. Monopoles and non-guyed lattice towers shall be inspected every five years. A report of the inspection results shall be prepared by the independent consultant and submitted to the board of selectmen, zoning board, the zoning administrator and the town clerk. Any major modification of an existing facility which includes changes to tower dimensions or antenna numbers or type shall require new structural inspection.
- C. Unsafe Structure: Should the inspection of any tower reveal any structural defect(s) which, in the opinion of the independent consultant renders that tower unsafe, the following actions shall be taken by the permittee. Within 10 business days of notification of unsafe structure, the permittee of the tower shall submit a plan prepared or approved by an independent consultant who is a professional structural engineer to remediate the structural defects(s). This plan shall be initiated within 10 days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to submit reports, remediation plans or implement remediation plans as

required shall be a violation of the conditional use permit subject to penalties as specified in Section 10.4 of the Ferrisburgh zoning Regulations.

Section 12.12 Amendments to Existing Telecommunications Tower and Facility Conditional Use Permits

An alteration or addition to a previously approved telecommunications facility or tower conditional use permit shall require a permit amendment when any of the following are proposed:

- A. Any change in the number, size or use of buildings or facilities permitted on the site;
- B. Any material change in technology used by the telecommunications facility; or
- C. Any addition or change of any equipment resulting in greater visibility or structural windloading, or any additional height of the tower, including profile of additional antennas, not specified in the original application.

Section 12.13 Tower Lighting and Signage; Noise Generated by Facility

- A. Towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular tower because of its height. Any lighting required solely as a result of height may be subject to review by the town. Heights may be reduced to eliminate the need for lighting or another location selected.
- B. No commercial signs or lettering shall be placed on a tower.
- C. Manually-operated emergency lights are permitted for use only when personnel are on site.
- D. Noise at the site perimeter from the operation of any machinery or equipment shall be minimized.

Section 12.14 Antennas Mounted on Structures, Roofs and Walls and on Existing Towers shall be subject to these bylaws.

Section 12.15 Temporary Wireless Communication Facilities

Any telecommunications facility designed for temporary use is subject to the following:

- A. Use of a temporary telecommunications facility is permitted only if the owner has received a telecommunications facility or tower conditional use permit from the Town of Ferrisburgh allowing temporary use.
- B. Temporary telecommunications facilities may be permitted by the Zoning Board for no longer than five days use during a special event provided the maximum height of a temporary facility is no higher than 50 feet from grade and the temporary facilities comply with all applicable portions of these regulations.

Section 12.16 Interference with Public Safety Telecommunications

No new telecommunications facility or tower shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or

changes in existing service, permittees shall notify the municipality at least ten calendar days in advance of such changes and allow the municipality to monitor interference levels during that testing process.

Section 12.17 Continuing Obligations

Upon receiving a permit, the permittee shall annually demonstrate that he or she is in compliance with all FCC standards and requirements regarding RFR, and provide the basis for his or her representations. The permittee shall provide the Zoning Administrator with a list of the most recent RFR readings taken at the site, their distances from the tower/transmitter, dates of the readings and the name of the person or company who took the readings. In addition, the permittee shall provide additional RFR readings taken at sensitive areas within 3 miles of the proposed tower.

Section 12.18 Abandoned, Unused, Obsolete, Damaged or Dangerous Towers or Portions of Towers

Abandoned or unused towers or portions of towers and their facilities shall be removed as follows:

- A. The permittee of a facility/tower shall annually, on January 15, file a declaration with the Town of Ferrisburgh's Administrative Officer certifying the continuing safe operation of every telecommunications facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the telecommunications facility/tower is no longer in use and considered abandoned.
- B. Abandoned or unused towers and associated facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Zoning Board. In the event the tower is not removed within 180 days of the cessation of operations at a site, the municipality shall notify the owner and may remove the tower and all associated facilities. Costs of removal shall be assessed against the property or tower owner.
- C. Unused portions of towers shall be removed within 180 days of the time that such portion is no longer used for antennas. The replacement of portions of a tower previously removed requires the issuance of a new telecommunications facility permit.
- D. An owner who has failed to file an annual declaration with the Administrative Officer by January 15 may, file a declaration of use or intended use and may request the ability to continue use of the facility/tower.