

# **WALTHAM ZONING, SUBDIVISION, AND FLOODPLAIN REGULATIONS**



**Approved by Planning Commission July 23, 2019**  
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# **ARTICLE I: ENACTMENT, INTENT, REPEAL, OF FORMER ZONING BYLAWS**

## **Section 110: ENACTMENT**

In accordance with the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117, hereinafter referred to as the “Act,” there are hereby established Zoning Regulations for the Town of Waltham, VT which are set forth in the text and map that constitute these regulations. These regulations shall be known and cited as the “Town of Waltham Zoning, Subdivision and Floodplain Regulations.”

## **Section 120: INTENT**

It is the intent of these Regulations to provide for orderly community growth in a manner implementing the Town Plan and to further the purposes established in Section 4302 of the Act.

## **Section 130: REPEAL OF FORMER BYLAWS**

The Zoning Regulations and Zoning Map of the Town of Waltham enacted in 1974 and subsequently amended in 1981 and 1991 and the Subdivision and floodplain regulations currently in effect are hereby repealed as of the effective date of these regulations and replaced in their entirety by these regulations.

## **Section 140: AMENDMENTS**

These regulations may be amended according to the requirements and procedures established in 24 V.S.A. § 4441 and 4442.

## **Section 150: INTERPRETATION**

The provisions of these regulations shall be interpreted and applied to promote the public health, safety, comfort, convenience and general welfare of the citizens and landowners of Waltham.

These regulations repeal and replace the former Waltham Zoning Subdivision and Floodplain Regulations. Otherwise, except as specifically provided to the contrary, these regulations will not repeal, annul or in any way impair any regulations or permits previously adopted or issued. Where these regulations impose a greater restriction upon use of a structure or land than required by any other statute, ordinance or rule, the provisions of these regulations shall control.

## **Section 160: EFFECTIVE DATE**

These regulations shall be effective upon their adoption in accordance with the procedural requirements contained in 24 V.S.A. § 4442

## **Section 170: SEVERABILITY**

If any provision of these regulations is held invalid, it shall not affect the validity of any other provisions of these regulations that can be given effect without the invalid provision. For this purpose, the provisions of these regulations are severable.



## **ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP**

### **Section 200: ESTABLISHMENT OF ZONING DISTRICTS**

The Town of Waltham is hereby divided into the following zoning districts as shown on the “Zoning Map.”

MUN:	Municipal District
HDR:	High Density Residential District
R-2.5:	Medium Density Residential District
HC-2.5:	Highway Commercial District
R-5:	Low Density Residential District
A-10:	Agricultural District
F-25:	Forest District
HOA:	Habitat Overlay District
FHA:	Flood Hazard Overlay Area

### **Section 201: ZONING MAP**

The locations and boundaries of Zoning Districts are established as shown on the Zoning Map drafted by Addison County Regional Planning Commission dated April 2019, and recorded in the town clerk’s office. A non-official reproduction is included herein for convenience only. The Zoning Map is hereby made a part of these regulations, together with all future amendments.

### **Section 202: INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

If uncertainty exists with respect to the boundary of any zoning district on the Zoning Map, the Development Review Board shall determine the location of such boundary.

### **Section 203: APPLICATION OF REGULATIONS**

The application of these regulations is subject to 24 V. S. A. § 4405 and § 4409. Except as hereinafter provided, no land development shall occur unless in conformity with the regulations herein specified for the district in which it is located.

Any use not permitted by these regulations shall be deemed prohibited.

### **Section 204: ZONING DISTRICTS - GENERAL STANDARDS**

This article describes the zoning districts within the Town of Waltham. Generally, each district description is divided into three sections. Section A will discuss objectives and guidelines describing the intent for each district, specifically how each district relates back to the town plan. Section B describes the uses permitted in each district either as “by right uses”, secured through a permit issued by the Zoning Administrator or “conditional uses”, which are subject to more intensive review by the Development Review Board. Section C includes the specific regulations for acreage, setbacks and other physical design elements imposed in each district. Please refer to the official Waltham Zoning Map for a delineation of the boundaries for each zoning district described below. Waltham Highway Commercial District contains an additional sub-section D included to implement design standards for commercial development designated for this area.

In addition to the uses permitted in each district, certain uses are allowed within each district and are exempt from these regulations, either by design of the Development Review Board, like small sheds, or by state statute, like hunting, agricultural and silvicultural uses. Exempt uses are covered in Section 301 of these regulations. Even though exempt, certain uses, like farm structures, may require that a permit application be filed with the Zoning Administrator to ensure that they qualify for an exemption. Also, other “governmental and community” uses, by statute, may only be regulated as to certain design or site planning elements as listed in statute. Those uses are addressed by Section 410 of these regulations and by other applicable portions of these regulations.

## Section 210

## HIGH DENSITY RESIDENTIAL DISTRICT (HDR)

### ***A. District Objectives and Guidelines:***

The purpose of the High Density Residential (HDR) District is to permit higher concentrations of population consistent with (future) waste water utility, and sidewalk infrastructure capacities to and from the City of Vergennes. Alternatively, HDR development could occur when alternative, community-septic technologies are approved by the State of Vermont. Utilities and infrastructure needed for development include: sidewalks, waste water treatment and water.

The HDR district concentrates future residential growth and directs residential growth away from expansive scenic viewsheds, working farms, and forestlands. The HDR district encourages the development of smaller, more affordable housing lots, and a diversity of housing within 1.3-mile walking or cycling distance from Downtown Vergennes. The HDR district will preserve as many natural and cultural features as possible. Homes shall be sited to maximize open space and to provide continuous, safe connection from home entrances to sidewalks. Street trees should be established whenever feasible.

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

#### **By-right Uses:**

1. Single-family dwelling
2. Two-family dwelling
3. Multiple-family or Multi-Unit Dwelling
4. Home occupation
5. Accessory use or building
6. Accessory Apartment
7. Daycare Home
8. Group Home
9. Boarding or Rooming House

#### **Conditional Uses**

1. Child Care Facility;
2. Community Center;
3. Senior Center;
4. Home Based Business.

***C. Planned Unit Developments:*** Planned Unit Developments reviewed and approved by the Development Review Board in accordance with Section 450 of these Regulations shall be required. The DRB may award density bonuses allowing up to a unit/.25 acres for a mix of housing including either or both two -family or multi-family housing. Developers utilizing the PUD standards shall meet the affordable housing standards, if building greater than 3 units, as contained in the Definitions of these regulations and the Design Standards contained in Sub-section E below.

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

Area/Dwelling Unit:	2.5	acres, except that in a PUD the DRB may grant density bonuses allowing a density of up to a unit for every .25 acres
Minimum Lot Frontage:	100	feet
Minimum Lot depth:	100	feet
Minimum Front Yard Setback:	30	feet (Measured from the centerline of the road)
Maximum Front Yard Setback:	75	feet
Minimum Side Yard Setback:	15	feet
Accessory Structure Side Yard Setback:	5	feet
Minimum Rear Yard Setback:	30	feet
Accessory Structure Rear Yard Setback:	10	feet
Maximum Lot Coverage:	30	%
Maximum Building Height:	35	feet

Accessory Structures shall not exceed the height of the primary house or 35 feet, whichever is less.

## ***E. High Density Residential Planned Unit Development Design Standards***

All non-residential buildings within the HDR Zone shall comply with the applicable portions of the Highway Commercial design standards contained in Section 230D of these regulations.

Housing units including single family, two family and multifamily units shall comply with the following applicable design standards.

### ***1. Building envelope and building placement***

**1.1** Building envelopes shall be located along the edge of existing natural or built features. Buildings and other structures shall not be sited in the middle of open fields. Buildings and structures shall be located so as to preserve agricultural utilization, wildlife habitat, and scenic views and minimize the loss of open space and forests.

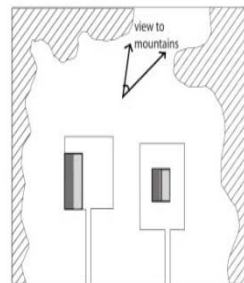
**1.2** Multiple buildings or structures on the same lot shall be clustered together in order to conserve views and open space and mimic historical character of clustered village housing or farm buildings.

**1.3** Multifamily dwellings shall be located so the roofline is below the skyline when viewed from neighboring properties, to fit within the contours and scale of the existing landscape.

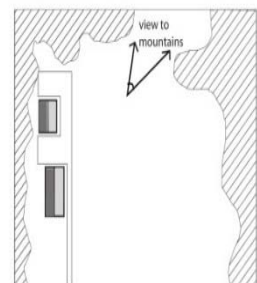
**1.4** The main building entrance should be identifiable from the main point of vehicular and pedestrian entry.

**1.1** *Building placement should conserve scenic views, preserve open space, allow shared driveways and utilities.*

NO



YES



### ***2. Building Design and Massing***

**2.1** Multifamily residential buildings shall use features such as gable roofs, dormers, porches, ells, barns and sheds as a way to diminish building mass.

**2.2** Front and entry areas of a building are articulated with design features that reduce the mass and scale of the building.

### ***3. Roof Line***

**3.1** Residential structures shall have sloped roofs which shall maintain a pitch of 6:12 or greater with the exception of dormers, porches, entry canopies or other similar elements.

**3.2** Sloped roof overhangs shall be between 6"-18" deep.

### ***4. Building Materials***

Cladding shall be natural materials or mimic traditional Vermont building materials such as wood, stone and solid-color brick. Any manufactured or engineered materials that mimic natural materials must be of similar durability than the natural alternative.

## 5. Landscaping and Screening

**5.1** Multifamily units and their parking areas require landscaping, screening and vegetated buffers proportional to their size and scale to mitigate visual impacts.

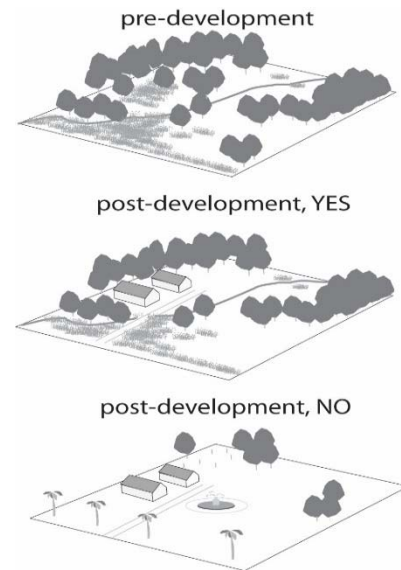
**5.2** Retain existing vegetation and significant landscape features such as forest patches, hedgerows, streams, and rock outcrops.

**5.3** When planting new vegetation, imitate existing vegetation growth patterns (such as hedgerows and clusters of trees) found in the landscape. **5.4** Fencing materials should match associated building materials. See Section 4, building materials.

**5.5** The outdoor storage of trash shall be screened or hidden from public view.

*The DRB has the authority to request that the developer obtain plans from a landscape architect, landscape designer or similarly qualified professional*

**5.1** A landscaped buffer provides an attractive edge to a rural, scenic highway, a safety buffer between parked and moving cars, and can provide a place to infiltrate storm water.



## 6. Parking and Driveways

**6.1** Impervious surfaces should be minimized and the total amount of parking shall be limited to the maximum necessary to accommodate the planned use of the associated building. See

**6.2** Parking lots shall include designated walk ways connecting directly to the main entrance of the building.

**6.3** All parking shall be at the rear and/or side-rear of a building.

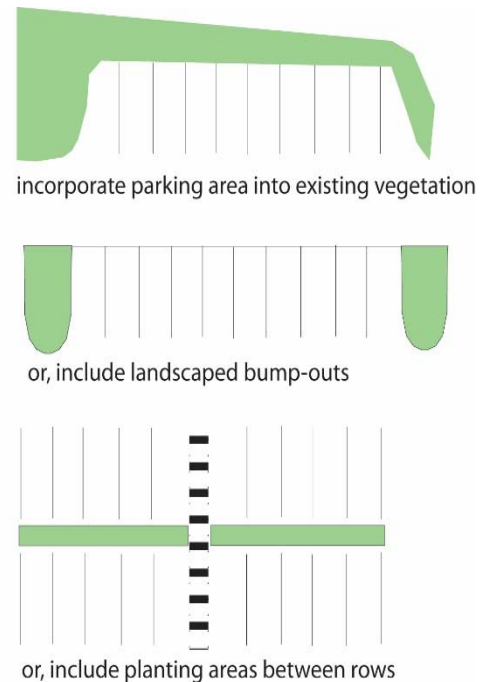
**6.4** Curb cuts and land disturbance for roads and driveways shall be minimized.

See also **ARTICLE VI: Transportation Access Safety and Parking**

## 7. Lighting

See **ARTICLE VIII: PERFORMANCE STANDARDS Section 820**

**6.1 and 6.2** Including vegetation in the design of a parking lot can lessen the visual impacts of the site on the surrounding landscape and in some cases, reduce parking lot runoff.



## Section 220: MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2.5)

### A. District Objectives and Guidelines

This district lies entirely within the North/Central Section (2) of the Town Plan and is intended to implement the goals stated within that district. Accordingly, it is intended to provide opportunities for housing development at a moderate density. Areas included in the districts have some or all of the following characteristics; light soils that can accommodate on-site sewage disposal, existing higher density settlement, marginal agricultural use or potential and convenient proximity to Vergennes.

The area included in this district is located close to Vergennes between Maple Street and Green Street, Green Street and Route 7 and the area between Route 7 and Plank Road northwest of South Middlebrook Road. In order to protect the function of U.S. Route 7 as a major through traffic route, access from Route 7 should be strictly controlled. New accesses from Route 7 in this district must comply

with State of Vermont Regulations. A maximum density of one dwelling unit per 2.5 acres is required throughout the district.

### B. Permitted Uses:

#### By-right Uses

1. Single-family dwelling
2. Two-family dwelling
3. Home occupation
4. Accessory use or building
5. Accessory apartment
6. Daycare home
7. Group home

#### Conditional Uses

1. Multi-family dwelling
2. Home based business *subject to regulations in Article V Section 501*
3. Low Impact Outdoor Recreation
4. Bed and Breakfast

### Planned Unit Developments

Planned Unit Developments reviewed and approved by the Development Review Board in accordance with Section 450 of these regulations are permitted and encouraged. Conditional Uses included in Planned Unit Developments are limited to those listed in Section 230(B) (2) above and are subject to conditional use approval by the Development Review Board.

### C. Specific Regulations:

	One and Two Family	Multi- Family
Minimum acreage per (dwelling unit) (Multifamily is limited to 4 dwelling units)	2.5 acres	2.5 acres
Lot frontage minimum	200 feet	200 feet
Lot depth minimum	100 feet	100 feet
Front yard setback minimum	50 feet	50 feet
Rear yard minimum	25 feet	40 feet
Side yard minimum	25 feet	40 feet
Building coverage maximum	20 %	20 %
Building height maximum	35 feet	35 feet
Minimum size of Planned Unit Development:		5 acres

## **Section 230: HIGHWAY COMMERCIAL DISTRICT (HC – 2.5)**

### ***A. District Objectives and Guidelines:***

Future development in this district should be in keeping with the vision of the Town Plan and in the best long-term interest of Waltham residents. The district is intended to allow a range of commercial development opportunities while protecting the character and value of nearby residential properties, and undeveloped scenic areas and views. Accordingly, the scale and style of these enterprises should be consistent with that of the barns or single-family homes nearest to it. Additionally, the buildings and infrastructure shall be sited on the property in a manner designed to preserve the views of the public from Route 7 and to promote usable blocks of open space. This district is limited to areas with frontage on existing town and state highways.

In order to protect the function of U.S. Route 7 as a major through traffic route, access from Route 7 must be approved by the Agency of Transportation and comply with State of Vermont regulations governing access. Shared access or access from other town highways is encouraged, if possible. Proposed conditional uses are all subject to conditional use review. All permitted uses, except one and two-family dwellings and agriculture, shall require site plan approval.

Having a set of design standards for the Highway Commercial District provides the Development Review Board with a tool in which to critique development proposals and to encourage sound development decisions for Waltham. The standards are intended to direct developers and consultants towards development that considers design, use and siting complementary to the unique character of Waltham's landscape.

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

#### **By-right Uses**

1. Single-family dwelling
2. Two-family dwelling
3. Home occupation
4. Accessory use or building
5. Accessory apartment
6. Daycare home
7. Group home

#### **Conditional Uses**

1. Veterinary clinic
2. Motor vehicle sales and service facility
3. Personal service facility
4. Carwash facility
5. Retail store
6. Multi-family dwelling
7. Day care facility (> 6 fulltime children)
8. Recycling center facility
9. Agricultural sales facility
10. Restaurant facility
11. Professional service offices
12. Indoor recreation facility
13. Low-impact, outdoor recreation facility
14. Mini-storage
15. Warehouse

Other commercial uses based upon a finding by the Development Review Board that such use is of the same general character as those permitted and will not be detrimental to the other uses within the district or to the adjoining uses.

Planned Unit Development  
 Planned Unit Developments reviewed and approved by the Development Review Board in accordance with Section 450 of these regulations are permitted. Conditional Uses included in Planned Unit Developments are limited to those listed in Section 230(B) above.

**C. Specific Regulations:**

Lot area minimum	2.5	acres
Lot frontage minimum	400	feet on RT 7
	200	feet on Plank Road and South Middlebrook Road
Lot depth minimum	275	feet
Front yard setback minimum	140	feet from centerline of ROW
Rear yard setback minimum	75	feet
Side yard setback minimum	75	feet
Building coverage (buildings only)		
Maximum	15%	
Impervious surface coverage maximum	20%	
Building height maximum	35	feet
Building size maximum:	15,000	square feet per building footprint
	50,000	square feet total footprint for all buildings, or 15% building coverage (whichever is less)
Minimum size of Planned Unit Development:	2.5	acres

Allowable buildings per lot:  
 Lots containing more than one building shall be developed as a PUD and comply with section 450. Buildings, infrastructure, and parking shall be designed in accordance with the HC design standards in section 240 and seek to maximize surrounding open space and natural features, including views.

**D. Highway Commercial Design Standards**

**1. Building envelope and building placement**

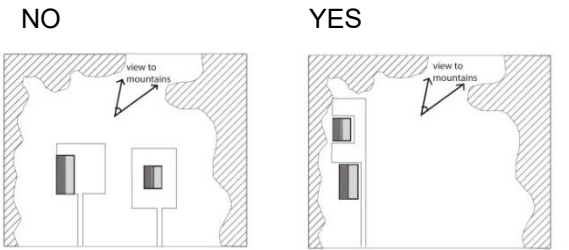
**1.1** Building envelopes shall be located along the edge of existing natural or built features. Buildings and other structures shall not be sited in the middle of open fields. Buildings and structures shall be located so as to preserve agricultural utilization, wildlife habitat, and scenic views and minimize the loss of open space and forests.-.

**1.2** Multiple buildings or structures on the same lot shall be clustered together in order to conserve views and open space and mimic historical character of clustered village housing or farm buildings.

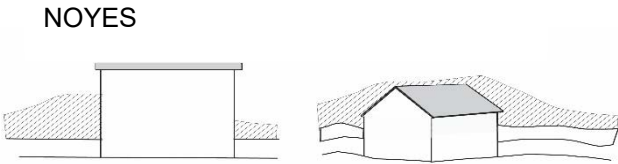
**1.3** Buildings shall be located so the roofline is below the skyline when viewed from Route 7 or neighboring properties, to fit within the contours and scale of the existing landscape.

**1.4** Loading docks and other utilitarian elements of a building shall be placed at the rear of a building and screened from surrounding roads.

**1.5** The main building entrance should be identifiable from the main point of vehicular and pedestrian entry.



**1.1** Building placement should conserve scenic views, preserve open space, allow shared driveways and utilities.



**1.3** Building should be placed within existing contours and roofline should sit below skyline to minimize visual impact of building mass.



**1.6** A minimum of a 50-foot wide landscaped area must be maintained between ROW and front of building footprint.

*See D. V 45.1-45.7 Landscaping and Screening*

## **2. Building Design and Massing**

**2.1** Buildings shall use features such as gable roofs, dormers, porches, ells, barns and sheds as a way to diminish building mass.

**2.2** Front and entry areas of a building are articulated with design features that reduce the mass and scale of the building.

**2.3** Utility buildings, structures or utility doors shall be at the rear of the building.

*See also ARTICLE VI Section 612*

## **3. Roof Line**

**3.1** Sloped roof structures shall maintain a pitch of 6:12 or greater with the exception of dormers, porches, entry canopies or other similar elements.

**3.2** Sloped roof overhangs shall be between 6"-18" deep.

**3.3** Flat roof buildings shall incorporate architectural details that reduce the mass and scale of the building.

## **4. Building Materials.**

**4.1** Cladding shall be natural materials or mimic traditional Vermont building materials such as wood, stone, solid-color brick and/or metal. Any manufactured or engineered materials that mimic natural materials must be of similar durability than the natural alternative.

**4.2** Materials should not create excessive glare to drivers.

## **5. Landscaping and Screening**

**5.1** Landscaping, screening and vegetated buffers are required and will be proportional to the size, scale and use of the associated structure(s) and used to mitigate visual impacts

NO

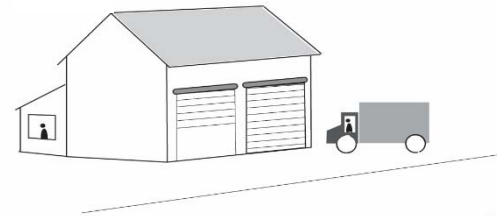


YES

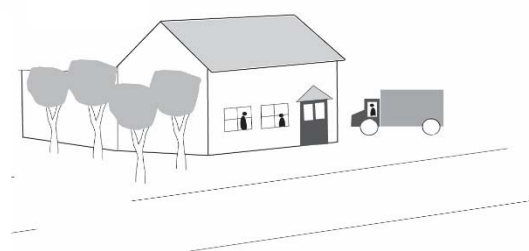


**2.1 – 2.2, 3.1-3.3** Building design should reduce the scale of a building with features that break up large, flat expanses of wall or window.

NO



YES



**2.3** Back of buildings should be dedicated to utility needs and front of buildings should provide a friendly face to the public right-of-way.



**5.2** A minimum of a 50-foot wide landscaped area must be maintained immediately from edge of any public right-of-way along the frontage of an entire property. Landscaped areas shall include a combination of grass berms, grassy swales, trees, and/or clusters of herbaceous plantings.

**5.3** Retain existing vegetation and significant landscape features such as forest patches, hedgerows, streams, and rock outcrops.

**5.4** When planting new vegetation, imitate existing vegetation growth patterns (such as hedgerows and clusters of trees) found in the landscape.

**5.5** Fencing materials should match associated building materials. See Section 4, building materials. Chain link fence in visible locations shall not be installed.

**5.6** Where any non-residential district abuts any residential district, a strip of land at least twenty-five feet in width shall be maintained as a landscaped area in the front, side, or rear yards, which abut the residential district.

**5.7** The outdoor storage of trash shall be screened or hidden from public view and the view of persons in residential districts. In commercial districts such storage shall be screened and located to the rear of the buildings.

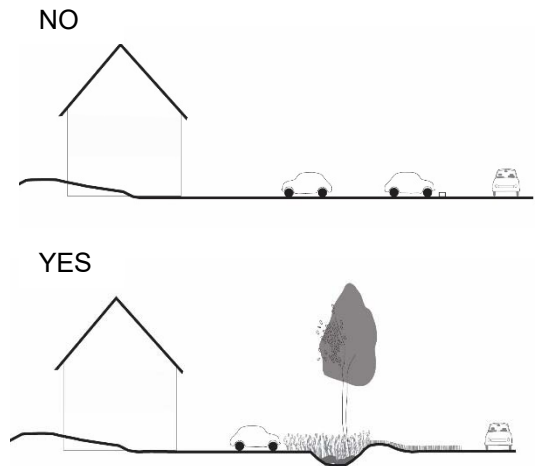
*The DRB has the authority to request that the developer obtain plans from a landscape architect, landscape designer or similarly qualified professional.*

## **6. Parking and Driveways**

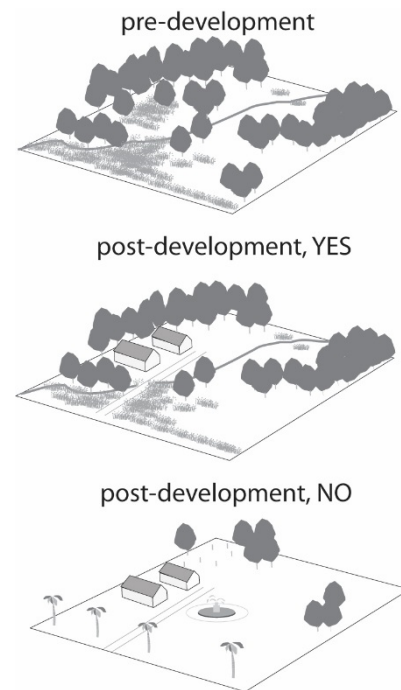
**6.1** Impervious surfaces should be minimized and the total amount of parking shall be limited to the maximum necessary to accommodate the planned use of the associated building. See Table 1 as a guide to parking requirements.

**6.2** Parking areas greater than 10 parking stalls shall be broken up with vegetated areas, either with existing vegetation or landscaped areas. Landscaped, vegetated bump outs should be no less than 9'Wx18'L, and any vegetated island should have a 5' wide planting area minimum.

**6.3** Parking lots shall include designated walk ways connecting directly to the main entrance of the building.



**5.1** A landscaped buffer provides an attractive edge to a rural, scenic highway, a safety buffer between parked and moving cars, and can provide a place to infiltrate storm water.



**5.3 and 5.4** Landscape treatment should maintain existing vegetation and natural features, and/or imitate natural features in the landscape.

**6.4** No more than 15% of employee and customer parking for any one building, or no more than 5 parking spaces (whichever is less) should be placed adjacent to any right-of-way. All other parking shall be at the rear and/or side-rear of a building.

**6.5** Curb cuts and land disturbance for roads and driveways shall be minimized.

**6.6** Parking area shall be screened with solid fence or evergreen plantings from neighboring residential properties.

See also *ARTICLE VI: DRIVEWAYS Section 611*

## 7. Signage

**7.1** Wall signs shall not be placed over architectural details of a building/structure, such as windows, eaves, cornices or trim.

See also *ARTICLE VII: SIGNS Sections 710-760*

## 8. Lighting

**8.1** Provide the minimum lighting necessary for motorist and pedestrian comfort and safety; eliminate glare or spillover onto adjacent properties.

**8.2** Select poles and fixtures at an appropriate scale for the buildings and surrounding spaces, and also for the pedestrian scale where necessary.

**8.3** Exterior lights for signage should be directed toward signs only and away from traffic and the night sky.

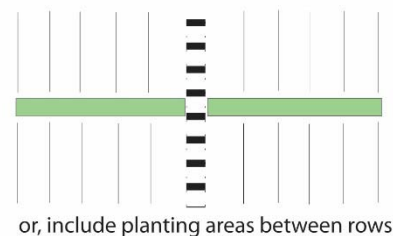
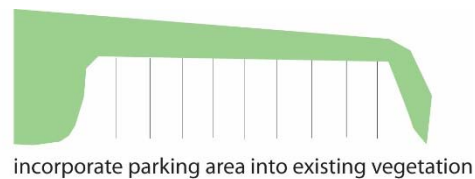
**8.4** Flashing signs shall not be permitted.

See also *ARTICLE VIII: PERFORMANCE STANDARDS Section 820*

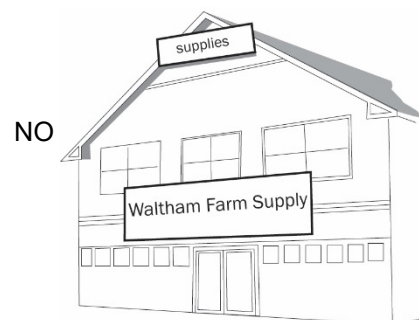
## 9. Building Canopies and Drive-thru Facilities

**9.1** Any canopies and/or drive-thru facilities shall be part of the architecture of the associated building and consistent with the building materials, scale and massing.

**9.2** Canopies shall not be internally illuminated or include signage on the canopy.



**6.1 and 6.2** Including vegetation in the design of a parking lot can lessen the visual impacts of the site on the surrounding landscape and in some cases, reduce parking lot runoff.



**7.1** Wall signage should be in-scale to the building and complement architectural details of the building rather than cover them up.

## 10. Vehicles and Equipment Sales

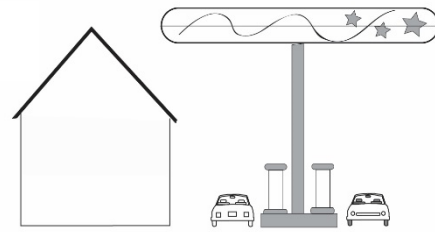
**10.1** The display of motor vehicles or equipment for sale or rent shall be prohibited within 50 feet from edge of any public right-of-way. See also landscaping requirements 5.1.

**10.2** The majority of all rolling stock inventory shall be stored and/or displayed inside, in the rear or on the side of the associated building that is *not* facing a public right-of-way.

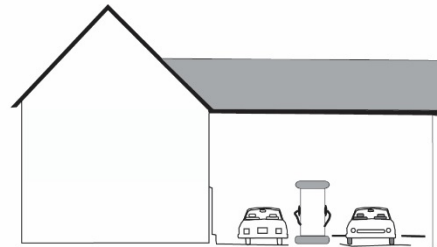
**10.3** Equipment or motor vehicle display areas along the frontage of a public road should have:

- (1) a 20x20 ft. minimum tree planting area at each end; and
- (2) a 20x20 ft. minimum tree planting area at intervals of between 60 and 120 feet if the display area exceeds 120 feet in frontage length.

NO



YES



**9.1 – 9.2** Gas station canopies built as part of the architectural design and scale of a building can lessen the visual impact of the gas station to a scenic, rural landscape.

**Table 1 Parking Maximums**

USE	RECOMMENDED MAXIMUM PARKING
Auto service/repair	Three spaces per bay
Auto sales new/used	One space per 500 square feet of gross floor area
Personal services	One space for each 250 square feet of gross floor area
Office, general or professional	One space for each 500 square feet of gross floor area
Office, medical or dental	Five space per practitioner
Restaurant	One space for each 125 square feet of gross floor area
Self-service storage	One space for every twenty stalls, plus two spaces for resident manager's office, if applicable
Retail business	One space for each 125 square feet of gross floor area
Veterinarian	Three spaces per practitioner
Indoor sports center	One space for each 260 square feet of gross floor area, plus one space per employee
Warehouse, storage	One space for each 1,250 square feet of gross floor area
Lumber yard	One space per 275 square feet of indoor sales areas plus one space per 625 square feet of warehouse/storage
Nursery	One space per 275 square feet of indoor sales areas plus one space per 625 square feet of warehouse/storage

## Section 240: LOW DENSITY RESIDENTIAL DISTRICT (R-5)

### A. District Objectives and Guidelines:

This district is located in Sections 2, 3, and 4 of the Town Plan. Lands in this zone in Section 2 include the area along Maple Street, Route 66, and Green Street. Lands in this zone in Section 3 include all lands not in the Forest District (F-25) north of Route 17, and a small strip along the west side of Pearson Road. Lands in this zone in Section 4 include an area in the northern portion of town on the east side of Green Street and the Southeast side of South Middlebrook Road, immediately adjacent to the Section 2 described above, and the east side of Pearson Road. It is intended to implement the goals stated within both of the town plan land use districts noted above. Accordingly, it is intended to provide ample practical opportunities for rural residential growth, less dense than the area immediately adjacent to the City of Vergennes. Areas included in this district do have some agricultural use and there are some soil and slope limitations; in these areas and to the extent practicable, guide development to conserve the town's primary agricultural soils to best maintain the economic viability of farming. Areas included in this district either have frontage on town roads or are suitable for planned unit developments served by roads built by the developer to acceptable town road specifications. A maximum density of one dwelling unit per five acres is required.

### B. Permitted Uses:

#### By-right Uses

1. Single-family dwelling
2. Two-family dwelling
3. Home occupation
4. Accessory use or building
5. Accessory apartment
6. Daycare home
7. Group home

#### Conditional Uses

1. Home based businesses *subject to regulations in Article V Section 501*
2. Low impact outdoor recreation
3. Bed and Breakfast
4. Greenhouse/nursery
5. Change of existing commercial use to new commercial use

#### Planned Unit Developments

Planned Unit Developments reviewed and approved by the Development Review Board in accordance with section 450 of these regulations are permitted and encouraged. Conditional Uses included in Planned Unit Developments are limited to those listed in Section 250(B) (2) above and are subject to conditional use approval by the Development Review Board.

### C. Specific Regulations:

		One and Two Family
Minimum acreage per dwelling unit	5	acres
Lot frontage minimum	300	feet
Lot depth minimum	150	feet
Front yard setback minimum	100	feet
Rear yard minimum	25	feet
Side yard minimum	25	feet
Building coverage maximum	20	%
Building height maximum	35	feet
Minimum size of Planned Unit Development:	10	acres

## Section 250: AGRICULTURAL DISTRICT (A – 10)

### A. District Objectives and Guidelines:

This district constitutes the largest district in Waltham and has locations in all land use planning sections in the town plan. Lands included in this district generally have some constraint to development either due to limited capacities of the soils to accommodate onsite sewage disposal, steep slopes, lack of or inadequate public road access. This district also includes lands with agricultural potential or lands in agricultural use. To the extent practicable, guide development to conserve the town's primary agricultural soils to best maintain the economic viability of farming in the town. A density not to exceed one unit per 10 acres is required for this district, except for land developed as Planned Unit Developments in the area described in subsection (B)(3) below.

### B. Permitted Uses:

#### By-right Uses

1. Single-family dwelling
2. Two-family dwelling
3. Home occupation
4. Accessory use or building
5. Accessory apartment
6. Daycare home
7. Group home
8. Primitive campsite

#### Conditional Uses

1. Bed and breakfast
2. Home based business *subject to regulations in Article V Section 501*
3. Greenhouse/nursery
4. Low impact outdoor recreation
5. Sand, gravel and shale extraction

#### Planned Unit Developments

Planned Unit Developments reviewed and approved by the Development Review Board in accordance with Section 450 of these regulations are permitted and encouraged. Additionally, all land in this district, except Section 3 of the Town Plan, (the west side of Maple Street) will be awarded a 2:1 density bonus (Making the minimum lot density 5 acres as opposed to 10) if it is developed as a PUD.

Conditional Uses included in Planned Unit Developments are limited to those listed in Section 260(B) (2) above and are subject to conditional use review by the Development Review Board.

### C. Specific Regulations:

Minimum acreage per dwelling unit	10	acres
(Unless developed as a PUD in area noted above)	5	acres
Lot frontage minimum	400	feet
Lot depth minimum	150	feet
Front yard minimum	100	feet
Rear yard minimum	25	feet
Side yard minimum	25	feet
Lot coverage maximum	20	%
Building height maximum	35	feet
Minimum size of Planned Unit Development:	20	acres

## **Section 260: MUNICIPAL DISTRICT (MUN)**

### ***A. District Objectives and Guidelines:***

The boundaries of this district are limited to the boundaries of the Town Hall property. This parcel of land and the surrounding area are most appropriate for the location of future municipal or community facilities such as a Town Clerk's office.

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

#### By-right Uses

1. Community facility
2. Educational facility
3. Library
4. Governmental building
5. Public Park
6. Museum

Pursuant to Section 410 of these regulations, these uses may only be regulated with respect to sighting criteria. See 24 V.S.A. §4413.

### ***C. Specific Regulations:***

Minimum acreage per dwelling unit	0.5	acres
Lot frontage minimum	100	feet
Lot depth minimum	150	feet
Front yard minimum	65	feet
Rear yard minimum	15	feet
Side yard minimum	15	feet
Building height maximum	35	feet

## **Section 270: FOREST DISTRICT (F – 25)**

### ***A. District Objectives and Guidelines:***

The Forest District is located within the South-Central Planning Section of the Town Plan's land use sections, also known as Buck Mountain. This district encompasses the core-forested area of Buck Mountain. It implements the plan by protecting the steep slopes, wildlife, water quality and remote areas of Buck Mountain where access, lack of public services, and soil conditions limit development. Permitted uses should be restricted to forestry, agriculture, and low impact outdoor recreational uses and low-density residential uses that preserve the values noted above and specifically as follows:

1. Are located below 500 feet of elevation
2. Driveway slope shall not exceed 15% slope, with a recommended slope no greater than 10%.
3. Ridgeline development or development otherwise impacting the viewshed should be prohibited
4. Developed areas, including driveways should be sited to minimize their impact on deer wintering areas.
5. Developed areas, including driveways should be sited to preserve contiguous blocks of forestland.

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

Below 500 feet

By Right

1. Primitive Camp
2. Single family homes

See Exemptions in Section 301.

Conditional Uses

1. Low impact outdoor recreation.
2. Accessory Apartment

Above 500 feet

By Rights

See Exemptions in Section 301.

Conditional Uses

1. Primitive Camp
2. Single family homes
3. Low impact outdoor recreation
4. Accessory Apartment

Planned Unit Developments reviewed and approved by the Development Review Board in accordance with Section 450 of these regulations are permitted and encouraged

### ***C. Specific Regulations:***

Minimum acreage per dwelling unit	25	acres
Lot frontage minimum. Lot must be configured with sufficient width and breadth to create usable tracts of land and avoid "spaghetti lots"	400	feet
Front yard minimum	100	feet
Rear yard minimum	25	feet
Side yard minimum	25	feet
Lot coverage maximum	<1%	
Building height maximum	35	feet
Minimum size of Planned Unit Development:	50	acres

## **Section 280: HABITAT CONNECTIVITY OVERLAY DISTRICT**

### ***A. Objectives and guidelines***

The purpose of the Habitat Connectivity Overlay District is to promote the preservation of Waltham's forest blocks and linkages, preventing further forest fragmentation to areas which provide significant ecological value for wildlife habitat, wildlife travel corridors and soil and water quality. These areas share similar flora and fauna to Buck Mountain/Forest District, but are not included in the Forest District. Areas included in the Habitat Connectivity Overlay District include forest blocks in the southeast corner of Waltham, between Route 17 and Pearson Road, forest blocks in the southwest corner of Waltham east of Maple Street, forest blocks north of Buck Mountain, between Route 66 and Green Street, and forest surrounding Mud Pond between Green Street and Route 7. It is intended to encourage applicants to engage in the thoughtful siting of their houses or other structures prior to seeking any permits from either the Zoning Administrator or the appropriate municipal panel prior to conditional use, site plan or subdivision review. None of the criteria below are meant to be applied as mandatory requirements on an individual basis. However, when viewed cumulatively, they are intended to preserve forest habitat and communal views by promoting best practices to guide the applicant, the zoning administrator and the appropriate municipal panel. It will not prohibit building on a property; but may impose restrictions on where and/or how structures are sited.

### ***B. Land Subject to Overlay Area***

Land in the Town of Waltham depicted on the Zoning Map as the Habitat Connectivity Overlay District is subject to this requirement.

### ***C. Application of Overlay District***

All uses and specific regulations of the underlying Zoning District will remain the same and will continue to govern applications within that district. In addition to satisfying all the requirements of the underlying district, applicants for projects within the Habitat Connectivity Overlay District shall need to file additional information with the Zoning Administrator. All applicants desiring to build any structure or undertake any use within the Habitat Connectivity Overlay Area will supply the Zoning Administrator with a narrative and a sketch of a landscape plan. Applicants before the Development Review Board for conditional use, site plan or subdivision review shall provide this information in addition to the application material required by the base sections under which their application is being reviewed. The narrative and sketch landscaping plan will demonstrate how the applicants have considered and addressed the following criteria:

1. Siting. Homes, driveways and other structures will be sited to minimize the impact to the forest habitat block and blend in with the landscape wherever practical and safe;
  - a. Avoid ridgeline building locations by setting the structure back from the edges of ridges;
  - b. Locate structures and drives at the edge of existing wood lines, not in the middle of the forested habitat block or in the middle of open fields;
  - c. Locate utilities underground, if economically reasonable, or adjacent to or within wood lines;
  - d. Site structures and infrastructure so they minimize impacts on the forest habitat block, blend into the landscape and are not highlighted against the sky when viewed from roads or neighboring properties;
2. Clearing. Clearing for homes, driveways and other structures should be controlled as follows:
  - a. Limit the extent of clearing necessary to accommodate the structures and services necessary to support that structure within a clearly defined building envelope not greater than 25,000 sq. ft.
  - b. Outside of the building envelope, minimize clearing by selectively cutting small trees with diameters of less than 4" at breast height and the lower branches of larger trees when clearing views out from the structure to look strategically through the tree line;
  - c. This provision is intended to control clearing that impacts the forest habitat block and views of structures.
3. Lighting and Reflectiveness. Protect forest integrity and dark skies at night by minimizing exterior lighting pursuant to the criteria in Section 820 of these Regulations.
4. Deer Wintering Areas. No structure shall be located within 300 feet of any know deer wintering area as depicted on The State of Vermont Natural Resources Atlas available at: <https://anrmaps.vermont.gov/websites/anra5/>

### ***D. Conditions attached to the Habitat Connectivity Overlay District***

The Zoning Administrator or Development Review Board, depending upon the type of application filed, shall evaluate the application, to determine whether it has satisfied the criteria above. The Zoning administrator shall evaluate the criteria as if it were part of the review of the underlying district requirement. The Development Review Board shall review the criteria pursuant to the procedure for Site Plan review explained in Sections 360-365 of these regulations. Both the Zoning Administrator and the Development Review



Board may attach conditions to any permit issued to ensure compliance with the Habitat Connectivity Overlay District requirements noted in Sub-section B above.

## **Section 290: FLOOD HAZARD AREA OVERLAY DISTRICT (FHA)**

### ***A. District Objectives and Guidelines:***

Development located in areas identified by the Federal Emergency Management Agency (FMHA) as having special flood hazard should meet district regulations for the district in which it is located in addition to the regulations specified in Article IX.

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

By-right Uses (Please see Section 906)

1. Agriculture
2. Forestry
3. Outdoor Recreation

Conditional Uses (Please see Section 907)

All new construction, substantial improvement, and development uses prescribed by the Town of Waltham zoning ordinance that do not qualify as permitted uses under Section 906 of Article IX and fall within the designated area of special flood hazard are permitted only upon the granting of a conditional use permit by the Development Review Board in accordance with the procedures and requirements of Sections 910, 911, and 912 of these regulations.

Planned Unit Developments

Not permitted

### ***C. Specific Regulations:***

No acreage requirements. **See Article IX.**

## Section 298: SUMMARY TOWN OF WALTHAM ZONING REGULATIONS

DISTRICT	AREA DWELLING MIN	FRONTAGE MIN	LOT DEPTH MIN	FRONT YARD MIN	REAR YARD MIN	SIDE YARD MIN	% LOT COVERAGE MAX	HEIGHT MAX	ACCESSORY BUILDINGS				
									FRONT MIN	IN	SIDE MIN	REAR MIN	HEIGHT MAX
HDR	2.5 AC	100	100	30	30	15	30	35	30	5	5	20	
R-2.5	2.5 AC	200	100	50 <sup>1</sup>	25 <sup>2</sup>	25	20	35	40	15	15	20	
R-5	5 AC	300	150	100	25	25	20	35	50	25	25	20	
A-10	10 AC	400	150	100	25	25	20	35	50	25	25	20	
HC-2.5	2.5AC	400/ 200	275	140	75	75	20	35					
FOR- 25	25 AC	400	N/A	100	25	25	1	35					
MUN.	.5 AC	100	150	65	15	15	--	35					

### LEGEND:

HDR – HIGH DENSITY RESIDENTIAL DISTRICT

R-2.5 – MEDIUM DENSITY RESIDENTIAL DISTRICT

R-5 – LOW DENSITY RESIDENTIAL DISTRICT

A –10 – AGRICULTURAL DISTRICT

FOR-25- FOREST DISTRICT

MUN – MUNICIPAL DISTRICT

FHA – FLOOD HAZARD OVERLAY DISTRICT – (Imposes additional restrictions on other zoning areas, but does not alter setbacks.)

HCO – HABITAT CONNECTIVITY OVERLAY - (Imposes additional restrictions on other zoning areas, but does not alter setbacks.)

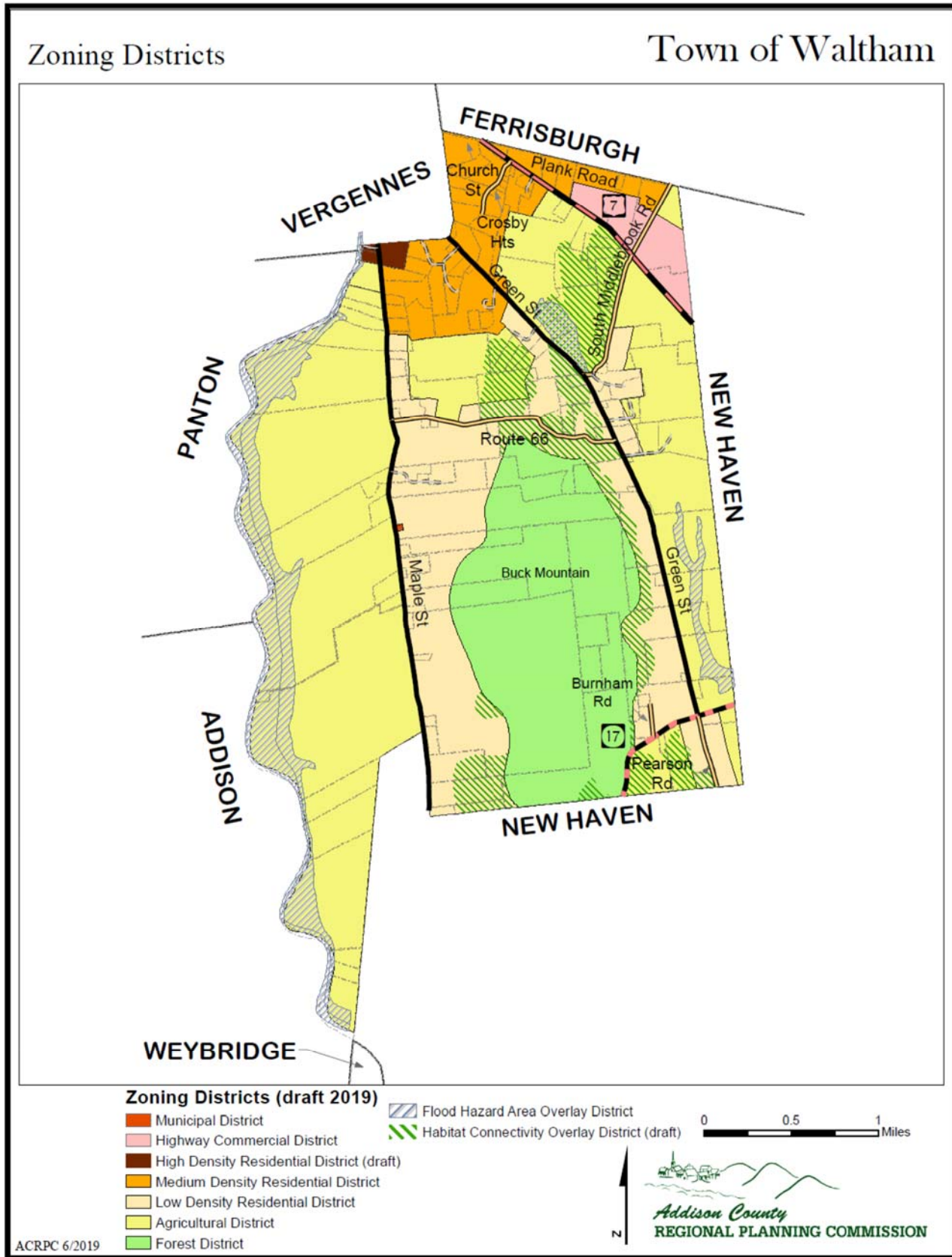
### NOTES:

1. PLANNED UNIT DEVELOPMENTS ARE ALLOWED IN ALL DISTRICTS EXCEPT THE FLOOD HAZARD OVERLAY DISTRICT. CERTAIN PORTIONS OF THE HDR AND A-10 DISTRICTS PROVIDE DENSITY BONUSES FOR PLANNED UNIT DEVELOPMENTS.
2. ACCESSORY BUILDINGS USED FOR HOME BASED BUSINESSES SHALL CONFORM TO THE SETBACK REQUIREMENTS OF THE DWELLING

<sup>1</sup>. Distance(s) shown are from lot lines, except for front yard distances. Front yard distances are measured from the street centerline.

<sup>2</sup>. Rear yard and side yard setbacks from multi-family structures are 40 feet in all districts in which they are allowed.

**Section 299: MAP OF THE TOWN OF WALTHAM ZONING DISTRICTS**



## **ARTICLE III: ADMINISTRATION AND ENFORCEMENT**

### **Section 300: APPLICATION OF REGULATIONS**

The application of these Regulations is subject to all applicable provisions of Chapter 117 of the Act. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof, shall be occupied or used unless in conformity with the regulations herein specified for the district in which it is located or it is exempt as per the Act or Section 301 of these regulations.

### **Section 301: EXEMPTIONS**

No zoning permits shall be required for the following structures:

1. Pursuant to 24 V.S.A. § 4413(b), public utility power generating plants or transmission facilities regulated under 30 V.S.A. §248.
2. Pursuant to 24 V.S.A. § 4413(d) farm structures, excluding dwellings, accepted agricultural practices and accepted silvicultural practices are exempt from local permitting requirements. Farmers intending to erect a farm structure must notify the municipality of the intent to build a farm structure, and abide by setbacks contained within the zoning ordinance, unless they provide an approval of lesser setbacks by the Secretary of the Agency of Agriculture, Food and Markets. The notification to the town must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way. Additionally, all farm structures within the Flood Hazard Overlay District must comply with the National Flood Insurance Program. The Town may report violations of Accepted Agricultural Practices or accepted silvicultural practices to the appropriate state authorities for enforcement.
3. Pursuant to 24 V.S.A. § 4413(e), but subject to 24 V.S.A. 2295, these regulations shall not restrict hunting, fishing, trapping and other activities under 24 V.S.A. § 2295.
4. Any residential fences, walls or landscaping under eight feet in height and which do not extend into or obstruct public rights of way or do not interfere with corner visibility or sight distances for vehicular traffic. Setbacks shall not apply to complying fences, walls or landscaping.
5. Unroofed and unenclosed residential terraces or patios, entry stairs, handicap ramps, or decks on the ground floor meeting all setback requirements.
6. Small sheds, doghouses, tree houses or similar structures having less than 120 sq. ft. of floor area and being less than 12 feet high, provided said structures are located at least 10 feet off the property line.
7. Signs as exempted under Section 711.
8. Garage sales, yard sales, auctions or similar events provided that they extend for a period of less than 16 consecutive days, nor more than 32 days in a calendar year, and are managed in a way not to cause traffic or parking problems or create other nuisances for neighbors.
9. Temporary roadside stands for the sale of agricultural products.
10. Renovations to the interior of a building that do not alter or change its use.
11. Infrastructure integral to a permitted building or structure and located primarily underground, such as drainage, wells and water systems.
12. Certain government and community facilities, as described in Section 410 of these regulations are exempt from the district regulations prescribing where they may be located, but shall be regulated with respect to all aspects of sighting the property within the parcel chosen to the maximum extent allowable under these regulations.

### **Section 310: ZONING ADMINISTRATOR (“ZA”)**

The Zoning Administrator is hereby nominated by the Development Review Board and approved by the legislative body to administer the zoning regulations, as provided for a Section 4448 VSA CH 24. Said Zoning Administrator shall literally enforce the provisions of these regulations and in so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these regulations, including providing interested persons with forms and information necessary to obtain municipal permits and coordinating a unified effort on behalf of the municipality in administering its development review programs.

## **Section 320: ZONING PERMIT**

Except as noted in Section 301 of these regulations or as specifically exempted in the Act, no land development, building development (See definition of building) or change of uses may commence without a zoning permit issued by the Zoning Administrator, as provided for in 24 V.S.A. § 4449.

## **Section 321: FEES**

The Board of Selectmen shall establish all fees to be charged with respect to the administration of these regulations, including those portions of these regulations addressing subdivisions and floodplains, with the intention of covering the costs of administering the same.

## **Section 322: APPLICATION FOR A ZONING PERMIT**

Any person desiring to undertake any activity requiring a zoning permit, not exempt pursuant to section 301 of these regulations, shall complete an application for a zoning permit and submit it with all required information to the Zoning Administrator. The Zoning Administrator shall not issue a permit unless a complete application is filed with them. The application shall include the following information:

1. A permit fee.
2. A completed Zoning Application identifying the applicant, the owner(s), the location of the parcel to be improved, the parcel identification number, the book and page number of the deed and a description of the improvements and uses proposed. The application shall also include a Site Plan identifying the location of the parcel and accurately depicting the improvement proposed in relationship to the lot lines and other structures on the parcel. Any sheet of the Site Plan shall be not more than 24" wide x 36" long drawn to scale, with the scale clearly identified and large enough to depict the details clearly. An arrow should depict north. The drawing shall depict the shape, design, size and height of the proposed structure, plus the location of all infrastructure proposed to serve the structure, including driveways, parking areas, utilities, drainage and other proposed improvements.
3. Written approval by the Board of Selectmen or their designated agent regarding access, plans to any town road including the location of driveways, culverts, and, if required, drainage along town roads.
4. Other town or state permits necessary prior to construction of any proposed structure, including but not limited to water supply and wastewater permits or storm water permits.
5. If the application falls within the Habitat Connectivity Overlay District, please see Section 280 for additional action required by the Zoning Administrator.
6. If the application falls within the Flood Hazard Overlay District, please see Section 290 and Article IX for additional action required by the Zoning Administrator.

## **Section 323: ACTION BY THE ZA ON A PERMIT APPLICATION**

Within 30 days after submission of the application, the Zoning Administrator shall act with regard to an application for a permit. If the Zoning Permit is approved, the Zoning Administrator shall issue a permit along with any conditions identified by the DRB. If the application is denied, the Zoning Administrator shall state such denial and the reasons therefore in writing and shall immediately mail notice of such denial to the applicant at the address indicated on the application. All activities authorized by the issuance of a zoning permit shall be completed within two years of its date of issue; if not, the Applicant must renew the application or the Zoning Permit shall become null and void.

## **Section 324: EFFECT OF ISSUANCE OF A ZONING PERMIT**

No permit issued pursuant to this section shall take effect until the time for appeal in Section 4465 of this title has passed, or in the event that a notice of appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the appropriate municipal panel is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken 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 325: POSTING OF A ZONING PERMIT**

Each permit issued under this section shall contain a statement of the period of time within which an appeal may be taken. The applicant shall be required to post a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal (15 days) has passed.

## **Section 326: CERTIFICATE OF OCCUPANCY**

Upon completion of any work or change in use requiring a permit under these regulations and prior to its occupancy, the permittee shall request a Certificate of Occupancy from the Zoning Administrator. Within seven days after notification that a building, structure, premises or part thereof is staked and about to have its footings poured and again when the building or structure is completed or ready for occupancy or use, the Zoning Administrator shall make inspection of it. Upon determining that the structure conforms to the provisions of these regulations the Zoning Administrator shall issue a Certificate of Occupancy.

## **Section 330: PENALTIES**

Violations of these regulations shall be regulated as prescribed in 24 V.S.A. § 4451 and 24 V.S.A. § 4452, as they may be amended from time to time. Penalties may include fines up to the amount listed in the statute at the time of the offense (Currently up to \$100 per day, per offense, doubled in the event of default), injunctive action or any other remedy the town may lawfully seek under the statute.

## **Section 340: DEVELOPMENT REVIEW BOARD**

Pursuant to the resolution of the Select Board, there is hereby established a Development Review Board whose members may consist of the members of the Development Review Board. The Development Review Board shall adopt rules of procedures and rules of ethics. All other matters governing the function of the Development Review Board shall be established as provided by the Act and as set forth in this article of these regulations. The Development Review Board shall constitute the appropriate municipal panel in the Town of Waltham responsible for all development review functions within the Town of Waltham not listed as a permitted use reviewed by the Zoning Administrator, including the following:

1. Review of rights of way or easements for land development without frontage;
2. Review of proposed conditional uses;
3. Site plan review;
4. Appeals from a decision of the Zoning Administrator;
5. Reviews of requests for variances;
6. Review of proposed subdivisions, including proposed planned unit developments;
7. Review of wireless telecommunications facilities;
8. Any other form of land use request for which it is the appropriate panel as authorized by these regulations and 24 V.S.A. §4460.

If more than one review is required, for a project, the reviews, to the extent feasible, shall be conducted concurrently.

## **Section 341: PUBLIC NOTICE AND REVIEW PROCEDURE**

The applicant shall submit to the Zoning Administrator, at least 25 days prior to the regular meeting of the Development Review Board, three copies of those materials required by the appropriate section of these regulations governing the type of action requested:

Conditional Use: See Section 350

Site Plan and other non-specified uses: See Section 360

Appeal of decision of the Zoning Administrator: See Section 370

Variance: See Section 380.

Subdivision: See Subdivision Regulations Section 1000.

Telecom Facilities: See the Telecom Regulations



### ***A. Notice procedures***

All development review applications or appeals before the Development Review Board shall require notice for a warned public hearing as follows:

1. Public Notice of hearings for conditional use review, variances, appeals of decisions of the Zoning Administrator, and final plat review for subdivisions shall be given not less than 15 days prior to the date of the public hearing by all the following:
  - a. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected. The Zoning Administrator or clerk of the Development Review Board shall place the notice in the paper.
  - b. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting the permit information within view from the public right-of-way most nearly adjacent to the property for which an application is made. The clerk or Zoning Administrator shall post notices two places within town. The applicant shall be responsible for posting the property.
  - c. Written notification to the applicant or appellant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The Zoning Administrator shall be responsible for notifying all adjoining landowners and shall do so by a certificate of mailing or hand delivery. At the first hearing, the Zoning Administrator shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent too and the certificate of mailing demonstrating that the letters were sent (The Zoning Administrator need only demonstrate that the letter was sent, not that it was received) or signed receipts if the letter was hand-delivered.
2. Public Notice of Hearings on **all other types of development review, including site plan review** shall be given not less than **7 days** prior to the date of the public hearing, and shall include, at a minimum all the following:
  - a. Posting of the date, place, and purpose of the hearing in three or more public places within the municipality in compliance with the notice requirements for special meetings contained in 1 V.S.A. § 312(c)(2). The clerk or Zoning Administrator shall post notices two places within town. The applicant shall be responsible for posting the property.
  - b. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The Zoning Administrator shall be responsible for notifying all adjoining landowners and shall do so by a certificate of mailing or hand delivery. At the first hearing, the Zoning Administrator shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent too and the certificate of mailing demonstrating that the letters were sent (The Zoning Administrator need only demonstrate that the letter was sent, not that it was received) or signed receipts if the letter was hand-delivered.

### ***B. Review Procedures.***

Pursuant to the requirements of 24 V.S.A. § 4461, for development review and 24 V.S.A. § 4468 for appeals, the Development Review Board shall set a date and place for a public hearing of an application or an appeal under this chapter that shall be within 60 days of the filing of a complete application or the notice of appeal with the Development Review Board. The Development Review Board shall give public notice of the hearing pursuant to the procedure described in Subsection 1 of this section and shall mail to the applicant, or in the case of appeals, the appellant, a copy of that notice at least 15 days prior to the hearing date. Any person or body empowered by 24 V.S.A. § 4465 to participate as an interested party or to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing. The Development Review Board may adjourn the hearing from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing. All hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. § 810, Vermont Statute.

### ***C. Decisions.***

The Development Review Board shall issue a written decision within 45 days after completing the hearing and shall within that period send the applicant or appellant, by certified mail, a copy of the decision. The decision shall include findings of fact, any conditions, and provisions for appeal. Copies of the decision shall also be mailed to every interested person who appeared and was heard at the

hearing. A copy of the decision shall be filed with the Zoning Administrator and the town clerk who shall record the decision as a public record.

If the Development Review Board fails to make a decision within 45 days of the close of the hearing, on the 46<sup>th</sup> day the Development Review Board shall be deemed to have rendered a decision in favor of the applicant or in the case of an appeal, the permittee.

#### ***D. Appeals.***

Interested parties who participated in the proceeding before the Development Review Board may appeal the Development Review Board's decision and should file their appeal as outlined in Section 399 of these regulations and 24 V.S.A. §4471.

## **SECTION 350: CONDITIONAL USES**

### **Section 351: GENERAL STRUCTURE**

The Zoning Administrator shall not issue a Zoning Permit for any use or structure that requires a conditional use approval, or for the expansion or enlargement or change in use of an existing conditional use, until the Development Review Board grants such approval. Uses requiring conditional use approval are listed in Article II as Subsection B of the articles governing each zoning district. The Development Review Board shall make findings on general and specific standards, hold hearings and attach conditions if any, as provided for in 24 V.S.A. § 4414(3), and all applicable sections of these regulations. Per 24 V.S.A. § 4413, in any district certain uses may be permitted only by approval of the Development Review Board, if the Development Review Board after public notice and public hearing determines that the proposed use will conform to general and specific standards contained in these regulations.

### **Section 352: APPLICATION FOR CONDITIONAL USE APPROVAL**

The applicant shall submit to the Zoning Administrator, at least 25 days prior to the regular meeting of the Development Review Board, three copies of a letter summarizing the proposed conditional use which addresses all elements of this article, and all other information necessary to illustrate compliance with these regulations and for the Development Review Board to make its decision including: property identification numbers of the property taken from the latest tax records; Name and address of the owner of record and the owners of adjoining lands; Name and address of person or firm preparing the map; Scale of Map, north point and date.

In addition to the information noted above, the Development Review Board may require the following:

1. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions.
2. Site plan, showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design, and screening.
3. Construction sequence and time schedule for completion of each phase for buildings, parking spaces, and landscaped areas of the entire development.
4. A description of energy utilization and conservation measures for each heated structure.
5. Where the proposed use or activity will result in disturbance of the site, a Soil Erosion and Sediment Control Plan as specified in Section 443.

### **Section 353: PUBLIC NOTICE AND REVIEW PROCEDURE**

The Development Review Board shall give public notice of hearing as specified in Section 341A of these regulations. The Development Review Board shall review this application pursuant to the review procedure established in Section 341B of these Regulations and pursuant to any rules of procedure it adopts.

### **Section 354: CRITERIA FOR REVIEW**

When determining the appropriateness of a proposed conditional use, the desires of the applicant shall be considered. The Development Review Board shall determine that the development or use will not result in an undue adverse impact on any of the following:



1. The capacity of existing or planned community facilities.
2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan. A conditional use may not, by its nature, scale, or conduct, cause an undue adverse change to the character of the area as it would exist if fully developed in accordance with the Town Plan. To that end, the conditional use shall meet or, where it is deemed appropriate by the Development Review Board, exceed the dimensional requirements for the district, the sign standards indicated in Article VII, and the performance standards specified in Article VIII. The estimated traffic generated by a conditional use shall not exhaust or exceed the capacity of the road to accept increased traffic unless the applicant agrees to a condition requiring the applicant to upgrade the road.
3. A conditional use must comply with bylaws and regulations adopted at the time of submission of the application.
4. A conditional use should not excessively inhibit or restrict access to or the use of renewable natural resources (including, but not necessarily limited to, water and sunlight) for energy generation.

As a result of its review of the aforementioned general criteria in response to a conditional use application, the Development Review Board may make such additional requirements as it deems necessary conditions of the permit with respect to the following specific standards:

1. Minimum lot size. Where the Development Review Board has determined that the minimum lot size for the applicable zoning district is inadequate to permit the proposed conditional use without undue adverse impacts to neighboring uses, it may increase the minimum requirement.
2. Distance from adjacent or nearby uses. Where the Development Review Board has determined that the minimum front, side, or rear yard setback for the applicable zoning district is inadequate to permit the proposed conditional use without undue adverse impacts to neighboring uses, it may increase the minimum requirements.
3. Performance standards, per 24 V.S.A. § 4414(3) and Article VIII of these Regulations. Where strict adherence to any applicable performance standards required by the Zoning Regulations will not prevent negative impacts by a proposed conditional use, the Development Review Board may make such reasonable adjustments as it deems necessary to achieve compliance with the general conditional use criteria specified above.
4. Minimum off-street parking and loading facilities. The applicant shall conform with the off-street parking and loading facilities standards specified in these Regulations for the proposed use and other conditions the Board may require to permit safe internal circulation or access to the site as it deems necessary.
5. Landscaping and fencing. The Development Review Board may require landscaping or fencing improvements pursuant to the standards specified in these Regulations if it determines that the proposed landscaping and buffering is insufficient to screen the adverse visual impacts of the proposed conditional use from adjoining streets or properties or such additional landscaping is necessary to mitigate adverse visual impacts.
6. The design and location of structures and service areas. The Development Review Board may require such reasonable changes in the design or location of structures and service areas as it deems necessary to ensure that the conditional use will be compatible in scale and design with neighboring uses in the area.
7. The site, location, and design of signs. A conditional use shall, at a minimum, comply with the sign standards outlined in Article VIII.
8. Such other factors these zoning regulations may include and that the Development Review Board deems are necessary to satisfy the general conditional use criteria specified above. ARTICLE IV contains general standards applicable to many uses. ARTICLE V contains specific standards relating to a number of more specific uses. ARTICLE VI contains driveway and parking standards and ARTICLE VII contains signage standards.

## **Section 355: DECISIONS**

Upon the close of the hearing, the Development Review Board shall issue its decision, and any conditions included therein, pursuant to the procedure outlined in subsection C of Section 341 of these regulations.

## **Section 356: PERFORMANCE BOND**

The Development Review Board may require that the applicant furnish the town with a performance bond up to the value of the cost of the work/improvement to be guaranteed by such bond as set forth in 24 V.S.A. § 4440 in order to assure the proper development of the conditional use according to the restrictions and conditions specified by the Development Review Board and as set forth in these regulations. The Development Review Board may determine the amount of the bond or certified check based upon the recommendations of a professional architect/engineer hired by the town.

## **SECTION 360: SITE PLAN AND OTHER APPLICATIONS**

### **Section 361: GENERAL CONDITIONS**

Site Plan approval by the Development Review Board shall be required only for proposed commercial uses not subject to subdivision or conditional use review. Unlike conditional use approval, Site Plan Approval assumes that the use proposed is appropriate for the district in which it is located. As such, it focuses solely on proper development within the site, not its compatibility or lack thereof with the surrounding area.

Any other applications or uses that require approval of the Development Review Board, but are not specifically listed shall be reviewed under the procedure for site plan review.

### **Section 362: APPLICATION FOR SITE PLAN OR OTHER APPROVAL**

The owner shall submit three sets of site plan maps and supporting data to the Development Review Board, which shall include the following information, presented in drawn form and accompanied by written text:

1. Property identification numbers of the property taken from the latest tax records; Name and address of the owner of record and the owners of adjoining lands; Name and address of person or firm preparing the map; Scale of Map, north point, and date.
2. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use, and deed restrictions.
3. Site plan, showing proposed structure locations and land use areas, streets, driveways, traffic circulation, parking and loading spaces, and pedestrian walks; landscaping plans, including site grading, landscape design, and screening.
4. Construction sequences and time schedules for completion of each phase for buildings, parking spaces, and landscaped areas of the entire development.
5. A description of energy utilization and conservation measures for each heated structure.
6. Information pertaining to satisfying the Performance Criteria in Article 8.

### **Section 363: PUBLIC NOTICE AND REVIEW PROCEDURE**

Public notice of hearing shall be given as specified in Section 341 A of these regulations. The Development Review Board shall review this application pursuant to the review procedure established in Section 341B of these Regulations and pursuant to any rules of procedure it adopts.

### **Section 364: SITE PLAN REVIEW CRITERIA**

The Development Review Board may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and protecting the utilization of renewable energy resources.

The Development Review Board shall review the site plan map and supporting data, taking into consideration the following objectives, before approval with or without stated conditions, or disapproval, is given:

1. Safety of vehicular circulation between the site and the street network pursuant to the requirements of Article VI.
2. Adequacy of circulations, parking, and loading facilities, with particular attention to safety pursuant to the requirements of Article VI.

3. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection to adjacent property.
4. Freedom from flooding and ponding.
5. Adequacy of landscaping and screening with regard to the potential shading of the most southerly facing wall and/or roof of adjacent buildings.
6. If the application falls within the Habitat Connectivity Overlay District, please see Section 280(C) for additional review criteria.
7. As part of the site plan review the DRB may also incorporate appropriate standards from Article VII. governing Signs and Article 8 governing Performance Standards.

## **Section 365: DECISIONS**

Upon the close of the hearing, the Development Review Board shall issue its decision pursuant to the procedure outlined in subsection C of Section 341 of these regulations. In approving a project with conditions, the Development Review Board may require specific modifications to the design, scale, layout and/or design or configuration of the project.

## **SECTION 370: APPEALS TO THE DEVELOPMENT REVIEW BOARD**

Appeals of any decision of the zoning administrator shall be made to the Development Review Board. The Development Review Board shall conduct hearings on appeals pursuant to the authority derived from and the procedures contained in 24 V.S.A. § 4465, 4466, 4468, and 4470.

## **Section 371: DEADLINE FOR APPEAL**

An appeal taken with respect to an act or decision of the zoning administrator must be filed within 15 days of such act or decision.

## **Section 372: INTERESTED PERSONS**

Only an “interested person” as defined in Section 1100 of these regulations and by 24 V.S.A. § 4465(b) may appeal the decision or action of the zoning administrator under these regulations.

## **Section 373: NOTICE OF APPEAL**

The appellant shall file a notice of appeal with the secretary of the Development Review Board or with the town clerk if no such secretary has been elected. The following information shall be included as part of the submittal:

1. Name and address of the appellant;
2. Names and addresses of the applicant, co-applicant or any person party to the original application;
3. A brief description of the property from which the appeal is taken;
4. A reference to the regulatory provisions applicable to that appeal;
5. The relief requested;
6. The grounds as to why the relief requested is proper under the circumstances.

## **Section 374: PUBLIC NOTICE AND REVIEW PROCEDURE**

Public notice of hearing shall be given as required by Section 341A of these regulations. The Development Review Board shall review all appeals pursuant to the procedure established in Section 341 (D) of these regulations.

## **Section 375: DECISIONS**

Upon the close of the hearing, the Development Review Board shall issue its decision pursuant to the procedure outlined in subsection (C) of Section 341 of these regulations.

## **SECTION 380: VARIANCES**

Requests for variances shall be made to the Development Review Board pursuant to the procedure outlined below.

### **Section 381: APPLICATION**

The applicant shall submit to the Zoning Administrator, at least 25 days prior to the regular meeting of the Development Review Board, three copies of a letter summarizing the proposed variance which addresses all elements of this article, and all other information necessary to illustrate compliance with these regulations and for the Development Review Board to make its decision, including property identification numbers of the property taken from the latest tax records; Name and address of the owner of record and those of adjoining lands; Name and address of person or firm preparing the map; Scale of Map, north point and date.

In addition to the information noted above, the Development Review Board may require the following:

1. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.
2. A scaled plan, showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
3. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
4. A description of energy utilization and conservation measures for each heated structure.
5. Other information pertinent to the issue before the Development Review Board.

### **Section 382: PUBLIC NOTICE AND REVIEW PROCEDURE**

Public notice of hearing shall be given as required by Section 341A of these regulations. The Development Review Board shall review this application pursuant to the review procedure established in Section 341B of these Regulations and pursuant to any rules of procedure it adopts.

### **Section 383: REVIEW CRITERIA**

The Development Review Board shall review all variance requests to determine if they can meet **all** of the following standards:

1. There are unique physical circumstances or conditions, including irregularity, narrowness, topography or other physical conditions and that the hardship is due to these conditions and not the circumstances or provisions of the bylaw in the district in which the property is located;
2. Because of these conditions or circumstances, there is no possibility that the property can be developed in strict conformity with the bylaws and that therefore a variance is necessary to enable the reasonable use of the property.
3. Unnecessary hardship has not been created by the appellant;
4. The variance, if authorized will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable resources or be detrimental to the public welfare;
5. The variance will represent the minimum variance that will afford relief and will represent the least deviation possible from the plan.

Please see 24 V.S.A. § 4469 for more information or for matters dealing with variances relating to renewable energy resource structures.

### **Section 384: DECISION**

The Development Review Board shall make its decision on the request for variance by applying the facts presented in the application and at hearing to the criteria, listed above, and incorporating all into its decision. Upon the close of the hearing, the Development Review Board shall issue its decision pursuant to the procedure outlined in subsection C of Section 341 of these regulations.

## **Section 385: CONDITIONS**

In approving a project, the Development Review Board shall act to ensure, and may impose conditions requiring that the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan. The nature of any variance and any conditions attached to it shall be entered on the face of the zoning permit, incorporated therein and shall be enforceable in the same manner as all other applicable requirements of these regulations.

## **SECTION 390: WAIVERS**

As an alternative to the Variance procedures noted above, Applicants may apply for site waivers of dimensional setbacks pursuant to the criteria below:

## **Section 391: APPLICATION**

The applicant shall submit to the Zoning Administrator, at least 25 days prior to the regular meeting of the Development Review Board (DRB), three (3) copies of a letter summarizing the proposed waiver which addresses all elements of this article, and all other information necessary to illustrate compliance with these regulations and for the DRB to make its decision, including property identification numbers of the property taken from the latest tax records; Name and address of the owner of record and those of adjoining lands; Name and address of person or firm preparing the map; Scale of Map, north point and date.

In addition to the information noted above, the DRB may require the following:

1. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.
2. A scaled plan, showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
3. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
4. A description of energy utilization and conservation measures for each heated structure.
5. Other information pertinent to the issue before the DRB.

## **Section 392: PUBLIC NOTICE**

Public notice of hearing shall be given as required by Section 341 of these regulations. The DRB shall review this application pursuant to the review procedure established in Section 383 of these Regulations and pursuant to any rules of procedure it adopts.

## **Section 393: REVIEW CRITERIA**

The DRB may grant waivers to reduce dimensional requirements, if the applicant can satisfy the following standards:

1. The waiver requested is for a use permitted within the district in question as by right use (as opposed to a conditional use).
2. The waiver requested is in conformance with the town plan and the goals set forth in Section 4302 of the Act.
3. The waiver requested is designed to conform to the character of the land use area in which it lies as defined in the Plan and further designed to reasonably limit impact or the potential for impact upon one's neighbors.
4. The design used incorporates design techniques (restricted height, lack of windows) screening (fencing or plantings) or other remedies to reasonably limit impact or the potential for impact upon one's neighbors.
5. The waiver requested accommodates structures providing for disability accessibility, fire safety and other requirements of land or energy conservation or renewable energy structures.

## **Section 394: DECISION**

The DRB shall make its decision on the request for waiver by applying the facts presented in the application and at hearing to the criteria, listed above, and incorporating all into its decision. Upon the close of the hearing, the DRB shall issue its decision pursuant to the procedure outlined in Section 7.13 of these regulations.

## **Section 395:           CONDITIONS**

In approving a project, the DRB shall act to ensure, and may impose conditions requiring that the waiver, if authorized, will represent the minimum waiver that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan. The nature of any waiver and any conditions attached to it shall be entered on the face of the zoning permit, incorporated therein and shall be enforceable in the same manner as all other applicable requirements of these regulations.

## **SECTION 399:       APPEALS FROM THE DEVELOPMENT REVIEW BOARD TO THE ENVIRONMENTAL COURT**

An interested person who has participated in a proceeding before the Development Review Board may appeal a decision rendered in that proceeding to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. An appeal from a decision of the Development Review Board shall be taken by filing a notice of appeal as outlined below. Appeals from the Development Review Board shall be governed in the same manner as appeals from state agencies outlined in 3 V.S.A. Sections 801 through 816 governing administrative procedures.

Notice of the appeal shall be filed by certified mailing, with fees, to the environmental court and by mailing a copy to the municipal clerk or the zoning administrator, if so designated, who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

## **ARTICLE IV: REQUIRED AND GENERAL REGULATIONS**

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

### **SECTION 400: REQUIRED REGULATIONS**

#### **Section 401: PROMOTE AND PROTECT AFFORDABLE HOUSING**

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

1. Meet the needs of the housing population provided in the Town Plan by allowing and encouraging all housing types permitted as uses in each district;
2. Protect Mobile/modular/manufactured homes by treating them the same as all other single-family homes (See Article XI, Definitions Section 1100);
3. Not discriminating against mobile home parks by treating new applications the same as other subdivisions and allowing the replacement of mobile homes on existing lots;
4. Provide for multi-unit and multifamily homes in certain zoning districts (See Article II, Sections 250);
5. Promoting accessory apartments in all districts allowing single family homes, subject to specified requirements (See Article XI, Definitions Section 1100);
6. Allowing residential Group care homes in all districts allowing single family homes, subject to specified requirements (See Article XI, Definitions Section 1100).

#### **Section 402: EXISTING SMALL LOTS**

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet.

#### **Section 403: REQUIRED FRONTAGE**

No land development may be permitted on lots which do not have either frontage on a public road or public waters, or with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way (ROW) at least 50 feet in width. That is unless a ROW of less than 50 feet but greater than 20 feet minimum exists that predates August fifth, 2013, in which case the narrower ROW is acceptable.

#### **Section 403A: INTERIOR LOTS FRONTAGE REQUIREMENTS**

Frontage requirement for any lot that does not have frontage on either a public road or public waters shall be waived.

#### **Section 404: HOME OCCUPATIONS**

Home occupations are permitted, by right, in all districts in which single-family residences are allowed. 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 residential areas and which does not have an undue adverse effect upon the character of the residential area in which the dwelling is located.

#### **Section 405: CHILDCARE HOME**

A “family childcare home or facility” as defined in Section 1100 of these regulations shall be considered to constitute a permitted single-family residential use and shall be allowed in all districts on the same basis as a single-family residential use.



## **Section 406: HEIGHT OF CERTAIN STRUCTURES**

The heights of antenna in Waltham are regulated by the Town of Waltham Telecommunications Regulations. A solar energy system, whether as a part of a building or incidental to a permitted structure and less than 10 feet high is an accessory use permitted within all districts.

A wind energy conversion system, not exempt from these regulations pursuant to 30 V.S.A. Section 248, is an accessory use permitted within all districts, subject to the following specific criteria:

A wind energy conversion system consists of a wind turbine, tower, and associated control or conversion electronics, which has a rated capacity of not more than ten kilowatts and is intended to primarily reduce on-site consumption of utility power. A system is considered a residential small wind turbine only if it supplies electrical power solely for onsite use. A small wind turbine includes a temporary meteorological tower erected for up to three years

For lots smaller than one acre in area, wind turbines cannot be higher than forty-five feet above the ground to the highest point of the rotor or blade. The maximum rotor diameter for small wind turbines on these lots shall be six feet.

For lots between one acre and 5 acres, the tower height shall be limited to one hundred feet, or twenty feet above the tree line, whichever is lower.

For lots greater than five acres, the tower height shall be limited to 120 feet or forty feet above tree line, whichever is lower.

Lighting: No tower is permitted that requires any lighting under federal, State, or local law.

Blade clearance: There shall be a minimum of thirty feet between the ground and the lowest point of the rotor blade. No blades may extend over parking areas, driveways, or sidewalks.

No wind generator towers are allowed in the Forest District above 400 feet in elevation.

Security: Unauthorized access to the tower shall be prevented by design, with a minimum of twelve feet from the ground to the bottom of the ladder. All doors to small wind turbine towers and electrical equipment shall be locked.

Set-back: No part of the small wind turbine structure, including guy wire anchors, may extend within ten feet of the property boundaries of the installation site. Wind turbine tower bases shall be set back from all lot lines, inhabited structures, overhead utility lines, and public roads or rights-of-way a distance equal to 110% of the total height of the wind tower and turbine blades.

Wiring underground: All wiring from the tower to the residence shall be underground.

## **Section 407: SOLAR SITING REGULATIONS**

Commercial solar arrays are prohibited in the Forest District above 400 feet in elevation.

## **Section 408: NON-CONFORMITIES**

The following provisions shall apply to all buildings and uses existing on the effective date of these regulations which do not conform to the requirements set forth in these regulations and to all buildings and uses that in the future do not conform by reason of any subsequent amendment to these regulations.

Any non-conforming use of structures or land except those specified below, may be continued indefinitely, but:

1. Shall not be moved, enlarged, altered, extended, reconstructed or restored (except as provided below), nor shall any external evidence of such use be increased by any means whatsoever, without approval by the Development Review Board, and then in a manner, which, in the opinion of the Board does not enlarge the nature of the non-conformance.
2. Shall not be changed to another non-conforming use without approval by the Development Review Board, and then only after a public hearing carried out pursuant to the provisions governing a conditional use review in Sections 350-359 and only to a use, which, in the opinion of the Board is of the same or of a more restricted nature.



3. Shall not be re-established if such use has discontinued for a period of one year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
4. Shall not be restored for other than a conforming use after damage from any cause unless the non-conforming use is reinstated by the commencement of construction within one year of such damage and the completion of construction and restoration of such building within two years; otherwise, the non-conforming use of such building shall be deemed to have been discontinued, unless such non-conforming use is carried on uninterrupted in the damaged part of the building.
5. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming building provided that such action does not increase the degree of non-conformance.

## **Section 410: SPECIAL PUBLIC USE EXCEPTIONS**

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 or 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 Department of Education.
3. Churches, and other places of worship, convents and parish houses.
4. Public and private hospitals.
5. Regional Solid Waste Management Facilities certified under 10 V.S.A. Chapter 159.
6. Hazardous Waste Management Facilities for which a notice of intent to construct has been received under Section 6606(a) of Title 10.

It is the intent of these regulations to regulate these facilities to the maximum extent allowable under law. The uses noted above shall be subject to Site Plan Review under Article III of these regulations and any other portion of these regulations that pertain to aspects of the project that may be regulated.

## **Section 420: LOTS OF RECORD 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 of record shall extend not more than thirty feet into the more restricted part.

## **Section 421: FRONT YARD SETBACK**

Front yard setbacks shall be measured from the street centerline of the existing roadway.

## **Section 422: REDUCTION OF LOT AREA**

Except as allowed pursuant to the section of these regulations dealing with PUDs, 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 423: REQUIRED AREA OR 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 424: 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 Development Review Board to project into the required yard if conformance with yard requirements will cause undue expense or unusual difficulties.

## **Section 425: 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 426: 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.

## **Section 430: RESIDENTIAL BUILDINGS ON LOTS**

There shall be no more than one residential building and one accessory dwelling unit on a lot except for Planned Unit Developments, as authorized by Section 4417 of the Act.

## **Section 431: PRIOR PERMITS FOR CONSTRUCTION**

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 432: 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 to prevent erosion by the owner.

## **Section 433: TEMPORARY USES AND STRUCTURES**

Temporary permits may be issued by the Zoning Administrator for the period not exceeding one year 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 440: GRADING**

No grading, cutting, or filling shall be carried out in any district that leaves the slope of the finished grade in excess of one to two.

## **Section 441: FILLING OF LAND**

In any district a zoning permit is required for the depositing of rock, concrete, stone, gravel, sand, cinders, stumps, and soil used for the filling of land. The Zoning Administrator 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. Dumping of refuse and waste material for landfill is prohibited.

## **Section 442: SOIL EROSION AND SEDIMENT CONTROL PLANS**

Where a development proposal requiring site plan review, conditional use approval or subdivision will result in disturbance of the site, a soil erosion and sediment control plan shall be prepared or as an alternative the applicant may produce a state permit governing storm water or an application for said permit. Such a development proposal plan shall not receive final approval until the Development Review Board has determined that the Soil Erosion and Sediment Control Plan satisfy the spirit and intent of these provisions. A state permit shall satisfy these regulations. If applicant does not need a permit or has not yet secured one, it may produce the following information:

### **A. Narrative**

Prepare a plan in compliance with the guidelines contained in the “Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites” (1987 – as amended) including:

1. A narrative describing the proposed development activity;
2. The schedule for grading and construction activities, including start and completion dates; sequence of grading and construction activities; sequence for installation and/or application of soil erosion and sediment control measures; sequence for final stabilization of the project site;
3. The specific design criteria for proposed soil erosion and sediment control measures and storm water management facilities;
4. The construction details for the proposed soil erosion and sediment control measures and storm water management facilities;
5. The installation and/or application procedures for all proposed soil erosion and sediment control measures and storm water management facilities; and
6. The operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.

### **B. Site Plan**

Prepare a plan in compliance with the guidelines contained in the “Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites” (1987 – as amended) including:

1. The location of the proposed development and adjacent properties;
2. The existing and proposed final topography including soil types, wetlands, watercourses, and water bodies;
3. The existing structures on the project site, if any;
4. The proposed area alterations including cleared, excavated, filled or graded areas, and proposed utilities, roads, and, if applicable, new property lines, and the general location of proposed structures and driveways;
5. The location of and design details for all proposed soil erosion and sediment control measures and storm water management facilities;
6. The sequence of grading and construction activities;
7. The sequence for installation and/or application of soil erosion and sediment control measures; and
8. The sequence for final stabilization of the development site.

### **C. Plan Review**

The Development Review Board shall assess the plan pursuant to the guidelines contained in the “Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites” (1987 – as amended) including:

1. The extent to which the proposed erosion controls will minimize erosion and sedimentation during the construction process.
2. The extent to which the soils within the disturbed areas will be stabilized and protected from future erosion once the development process has been completed.
3. The extent to which the development plans and schedule have been designed to minimize the length of time that any portion of the site will be disturbed.
4. The appropriateness of the proposed erosion controls for the soil types and erosion potential of the site.
5. The need for, and adequacy of any proposed, storm water diversion or retention measures.
6. The extent to which the proposed erosion and sediment control measures will affect the adequacy and utility of all proposed landscaping and screening plans, parking areas, and the internal circulation design.

## **Section 450: PLANNED UNIT DEVELOPMENT**

In accordance with the provisions set forth in 24 V.S.A § 4417, and in those districts where Planned Unit Developments (PUDs) are allowed, the modification of the district regulations by the Development Review Board is permitted simultaneously with approval of a subdivision plan under the following procedures:

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

The purpose of the planned unit development (PUD) provisions is to encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land that will substantially implement the following objectives:

1. Result in innovative development design and layout;
2. Facilitate the adequate and economic provision of streets and utilities;
3. Protect sensitive natural areas, such as prime agricultural lands, wetland areas, steep slopes, ridgelines, and special wildlife habitats, from over-intensive development;
4. Preserve the natural and scenic qualities of open land;
5. Encourage the provision of adequate recreational areas and necessary public facilities;
6. Provide for a mixture and variety of housing types at different densities and levels of affordability;
7. Permit the development of existing lots, which, because of physical, topographic or geological conditions, could not otherwise be developed; and
8. Implement the Waltham Town Plan

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

Permitted uses within a PUD may include and shall be limited to:

1. Dwelling units in detached, semi-detached, or multi-storied structures or any combination thereof;
2. Any nonresidential use permitted in the district or districts within which the PUD is located.

### ***C. Application Procedure***

Applicants for a PUD on a single parcel or as part of a subdivision application shall follow the application procedure for filing a subdivision in the Town of Waltham. In addition to preliminary plat submission requirements under the Subdivision Regulations, PUD applications shall include the following:

1. A statement describing the nature of all proposed modifications, changes or additions from the existing zoning regulations, and the proposed standards and criteria for the development, including standards for the design, dimensions and spacing of buildings and sizes of lots and open spaces.
2. Any other supporting information that the Development Review Board deems necessary to determine whether the proposed PUD meets applicable standards, including Site plan standards applicable to the non-residential portion of the application.

### ***D. General Standards for Review***

The following general standards shall be met in order for the Development Review Board to approve the application:

1. The PUD is consistent with the municipal plan.
2. The minimum size of any PUD shall be as specified in Article II (minimum size required is different from district to district). The overall development density or intensity of the project does not exceed the density which could be permitted, in the Development Review Board's judgment, if the site (excluding the area within the boundaries of any proposed road) were subdivided into lots in accordance with the district regulations, The Development Review Board may modify this for all proposals in the specified section of the Rural Agricultural District.
3. Where a mix of residential and non-residential uses are proposed, the development will result in a balance of such uses that will reinforce existing settlement patterns within the community, thereby reducing the potential for scattered residential or commercial development.
4. The PUD is an effective and unified treatment of the development possibilities of the project site, and the development plan makes appropriate provision for the preservation of streams and stream banks, steep slopes (in excess of 15 percent), 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. 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 permit.
7. Mixed residential and non-residential uses, where proposed, shall be so arranged as to ensure visual and acoustical privacy to residents in the development, except where topographical conditions make compliance unreasonable.
8. Where a PUD is to be located in more than one zoning district, the overall development density shall not exceed the density permitted by the sum of the maximum densities as calculated separately for each individual zone in the PUD, including any applicable density bonuses.
9. PUDs in the Highway Commercial district shall follow the design standards set forth in sub section 230D.
10. PUD's for affordable housing in the High-Density Residential District shall follow the Design Standards in Section 210E.

#### ***E. Specific Standards for Review***

The following specific standards shall be met in order for the Development Review Board to approve the application:

1. District regulations regarding the height and spacing between main buildings shall be met unless otherwise requested in writing by the applicant and waived by the Development Review Board.
2. To ensure adequate privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter of the PUD shall meet the minimum setback distance appropriate to that district and adequate screening may be required.
3. Adequate water supply and sewage disposal facilities shall be provided.
4. Lighting for non-residential uses shall be provided in such a manner as to prevent excessive glare to residential uses.
5. Where the proposed development will result in improved park or recreational facilities, direct public access will be afforded to all residents of the development.
6. Roadways, parking, and unloading facilities shall be designed and constructed so as not to cause unreasonable highway congestion or unsafe traffic conditions.
7. The maximum site coverage due to impervious surfaces (excluding roads) shall not exceed 20 percent of the total site area.
8. For any subdivision application, 30% of the total acreage must be preserved as contiguous, functional open space for supporting the purposes contained in subsection 450A. Open space may be a dedicated common area maintained by home owner association or developer, and accessed by homeowners, *or* each lot could include land subject to deed restriction in order to preserve open space.

#### ***F. Open Space***

If the PUD results in lands available for parks, recreation, open space, or other municipal purposes, the Development Review Board 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.

## **ARTICLE V: REGULATIONS GOVERNING SPECIFIC USES**

### **Section 501: HOME BASED BUSINESS**

Home based businesses, (as distinguished from Home Occupations, noted immediately above in Section 404 of these regulations) may be allowed in the districts specified in Article II of these regulations as conditional uses, subject to review of the Development Review Board pursuant to sections 350-356 of these regulations and the following additional provisions:

1. The operator or owner of the use shall live on the property where the occupation is conducted.
2. The business shall be carried on within the principal dwelling unit and/or accessory structures, and shall occupy less than 50% of the combined floor area of all structures on the lot.
3. The exterior appearance of the dwelling unit may be altered as is necessary to accommodate the business use, as long as the alterations do not change the residential character of the property.
4. A sign meeting the requirements of Article VII of these regulations is permitted, as is some outdoor storage of material as noted below.
5. The residents of the dwelling unit, plus no more than 4 non-resident, full time equivalent employees may be employed on site in the business.
6. The business shall not generate traffic, including delivery trucks, which would exceed the volumes of the capability of the road to carry or otherwise have an undue adverse impact upon the neighborhood that it occupies.
7. There shall be no storage of hazardous waste or materials; fuel storage will be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.
8. Adequate, screened, off-street parking shall be provided for all residents and employees in accordance with the provisions of Section 610 of these regulations.
9. The business shall not have an undue adverse effect on the neighboring lots and uses. Landscaping and screening may be a conditional of all permits as deemed appropriate by the appropriate municipal panel. Landscaping and screening of views from the roads and neighboring properties shall be required for the outdoor storage of building or construction materials, and heavy equipment which may only take place in the Agricultural and Low-density residential districts, and for vehicles, firewood or lumber for sales in all districts.
10. The business shall not result in hazards to the public safety and welfare or unduly adversely impact the neighboring properties and shall be subject to all performance standards included under Article VIII of these regulations.
11. If the business generates wastewater in excess of that required for a single-family business, a wastewater permit shall be required.
12. The following specific uses shall not be treated as home-based businesses under these bylaws: heavy manufacturing, commercial motor vehicle repair shop, kennels, antique shops or other retail sales, group instruction, eating and drinking establishments, Shooting ranges, junkyards and other similar uses.
13. The permit for a home-based business shall clearly state that the business is an accessory use of the principle residential dwelling and the business must be retained and operated in common ownership with the residence.

### **Section 510: USE OF CAMPERS**

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

1. In an approved campground;
2. In an approved camper sales lot;
3. On property with the permission of the owner provided that it is:
  - a. Not used as a permanent living space;
  - b. Not permanently hooked to water and sewer; and
  - c. Not occupied for a period of more than six (6) months without obtaining a temporary zoning permit.

## **Section 520: STORAGE OF FLAMMABLE LIQUIDS**

The storage of any highly flammable liquid in tanks above ground with unit capacity greater than five hundred and 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 or can otherwise be shown to comply with all applicable state regulations.

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 521: MINING AND QUARRYING**

Mining and quarrying of hard rock minerals are not permitted anywhere in Waltham. Mining and blasting to create construction aggregate are also not permitted. However, removal of a small amount of ledge to allow sufficient depth for foundation footings associated with the construction of a permitted residence is allowed.

For the purpose of interpreting and complying with Waltham Zoning Regulations, the following terms relating to Earth Resources in the Town of Waltham are defined by the town as follows:

Extraction – Removal of earth resource minerals by any means.

Mining – extraction of earth resource minerals by creating a subterranean tunnel and/or stripping material from the surface to get at underlying mineral material.

Examples:

1. A mining shaft created to extract metallic ore
2. Removing overburden to expose and extract minerals.

Quarrying – mining of earth resources by blasting material from a hard rock face or digging to create a “below ground level” open pit. A quarry is a place from which dimension stone, rock, construction aggregate, riprap, sand, gravel, or slate has been excavated.

Quarrying also includes the enlargement of any existing quarrying excavations.

Examples:

1. Creating a rock quarry by blasting hard rock to get material that can be used as fill or crushed and used in place of gravel
2. Creating a deep open pit by digging below the contours of the surrounding lands such as extracting gravel from an old riverbed by using a crane with a clamshell bucket.

Bank Pit – land form characterized by a steep face from which naturally occurring Loose Sand, Loose Gravel and Loose Shale has been excavated. Extraction of naturally occurring Loose Sand, Loose Gravel and Loose Shale from a bank pit is a conditional use in all districts where it is permitted in Waltham

Naturally Occurring Loose Sand – fine grains of varied stony minerals (usually silica) found in natural deposits created by glacial or alluvial deposition. Sand is usually found as deposits left by glaciers, or in old lake or stream beds. Unlike Sandstone, these materials can be extracted by a front-end loader or a bucket on a farm tractor without the need for blasting. However, quarrying of sandstone is not allowed in Waltham.

Sandstone - a clastic sedimentary rock composed mainly of sand-sized minerals or rock grains.

Naturally Occurring Loose Gravel – Coarse sand and small pebble deposits usually found in Glacial Kames, Eskers and Drumlins. These materials can be extracted by a front-end loader or a bucket on a farm tractor without the need for blasting.

Naturally Occurring Loose Shale – A type of highly fractured soft stone used for fill and paving. Loose shale can be extracted by breaking it up with the bucket on a front-end loader without the need for blasting.

Prime and Statewide Soils – See the U. S. Natural Resource Conservation Service definitions of Prime and Statewide soils referred to on page 29 of the Waltham Town Plan.



## **Section 522:           EXTRACTION OF SOIL, SAND, SHALE AND GRAVEL**

The removal of loose sand, loose shale or loose gravel for sale, except when incidental to construction of a building on the same premises, shall be a conditional use in all districts where it is permitted, subject to Sections 350-355 of these regulations. The following provisions shall apply:

1. No removal of loose sand, loose gravel or loose shale for sale under a conditional use permit shall occur for more than one year from commencement. For any extraction to occur beyond the one-year commencement anniversary the applicant must reapply for an extension of the permit.
2. Before approval of any new loose sand, loose shale or loose gravel operation, or extension thereof, a performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall be sufficient to cover the cost of the plan.
3. The removal of all material shall be conducted solely from a bank pit by means of a front-end loader or by means of a bucket on a farm tractor only; and 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. Digging or dredging to create a pit shall not be permitted. After excavation activities have been completed, the excavation site shall be restored. The excavated area shall be graded smooth and left in a natural condition. Cut slopes and spoil banks shall not be allowed to remain. Finished slopes in restored areas shall not exceed 25 percent, unless it can be demonstrated by the applicant that a steeper grade can be adequately vegetated and stabilized. Under no circumstances shall any part of a finished slope exceed 50 percent. Finally, the entire excavation 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 Zoning Administrator.
4. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property. All provisions to control natural drainage water shall meet with the approval of the Zoning Administrator.
5. No excavation or stockpiling of materials excavated under a conditional use excavating permit shall be located within two hundred feet of any street or other property line. In addition, no excavation or processing activities shall be undertaken outside the hours of 7:00 A. M. to 5:00 P.M. Monday through Friday or on any legal holiday. More restrictive operating limitations may be established if residential structures are located within 200 feet of any property line of the excavation site.
6. No power-activated sorting or screening machinery or equipment operated under a conditional use excavating permit 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.
7. All excavation slopes in excess of one to two shall be adequately fenced as determined by the Zoning Administrator.
8. Extension of an existing non-conforming operation shall not be permitted.
9. Stripping or removal of topsoil meeting the USNRC Prime and Statewide classification criteria for sale or for use on any parcel other than the parcel from which it was stripped or removed shall be prohibited, unless such topsoil was removed for the construction of a building on the premises in accordance with an approved site plan or zoning permit and is not needed on the site.
10. No excavation activities shall be permitted to occur on more than one half acre at any one time. Excavation of additional one-half acre sites shall be permitted only after the applicant has demonstrated to the Zoning Administrator that the exhausted site has been restored to a natural state (except those portions or slopes of the exhausted site which are immediately adjacent to the next excavation area and would be affected by the proposed future excavation activities) in accordance with the conditions of the initial permit.
11. The Development Review Board may attach any additional conditions as it may find necessary for the safety and general welfare of the public.
12. Nothing in this Section shall prevent the stockpiling of sand by the Town of Waltham in the shed at the town office or at any other location the Town Select Board deems necessary to meet the town's road maintenance needs.

## **Section 530:           BOAT HOUSE**

Waterfront lots may have a one-story boathouse for the sole purpose of boat storage, and one end may extend into the water ten feet beyond the high-water mark. Width of the boathouse is not to exceed twenty-four feet; height is not to exceed twenty feet above the high-water mark.

## **Section 531: ACCESSORY USES AND BUILDINGS**

Accessory uses or buildings must conform to setback, coverage, and building height requirements for the district in which it is located.

## **Section 532: FREESTANDING DISHES AND ANTENNAS**

The installation of non-exempt freestanding dishes and antennas not covered by the Waltham Telecommunications Regulations shall meet the minimum setback, lot coverage, and height requirements for accessory uses for the district in which it is located, and shall be permitted only in the rear yard of a dwelling or other building served. The Development Review Board will permit alternative siting if needed for quality reception.

## **Section 540: ACCESSORY ON FARM BUSINESSES**

Farming and forestry activities are generally exempt from municipal zoning regulations as a matter of State law. See Title 24 of the Vermont Statutes Annotated, Section 4413(a), (24 V.S.A. 4413(a). These regulations exempt farm and forestry activities from zoning in Section 301, Exemptions, Sub-section 2. Farm Structures may also be exempt from local zoning regulations, but the farmer has the burden of demonstrating that the structure they are proposing to build will be used for farm purposes. The process to claim exemption for a farm structure is also covered in Section 301(2) of these regulations.

Many farms are now expanding their operations into business activities that fail to meet the legal definition of “farming”, but are clearly related to the farm and farming. The legislature, recognizing the importance of these on-farm businesses to Vermont’s working landscape, created a compromise, requiring municipal bylaws to allow “accessory on-farm businesses”, but also allowing municipalities to regulate some activities of those businesses. See 24 V.S.A. 4412(11) for a full text of the statute.

Waltham hereby allows qualifying “Accessory on-farm Businesses” as permitted uses in all districts. Qualifying “Accessory on-farm businesses” shall be subject to Site Plan Review pursuant to Sections 360- 365 of these regulations. Applicants desiring to open an “Accessory on-farm Business” shall file a zoning application with the Waltham Zoning Administrator. The application shall contain the following information:

1. All information required in Section 322 of these regulations governing permit applications;
2. Information demonstrating that the proposed use meets the eligibility requirements for Accessory on-farm businesses listed in section 2(a)-(c) below. (One way Applicants may satisfy this requirement is by filing a letter from the Vermont Agency of Agriculture Food and Markets finding that the proposed business use and the farm on which the use is proposed satisfy the eligibility criteria).
3. Information listed in the Site Plan Review Criteria contained in Section 362.

Upon acceptance of a complete application by the Zoning Administrator, the ZA shall pass the application to the DRB for its review. First, the DRB shall determine whether a proposed activity qualifies as an “Accessory on Farm Business” by complying with the following definitions and eligibility requirements:

1. Definitions, contained in Article XI of these regulations that define elements of Accessory on-farm businesses include: "Accessory on-farm business", "Farm", "Farming", "Qualifying Product" and "RAP Rules". Applicants should use the definitions to determine and establish eligibility.
2. Eligibility. Qualifying “Accessory on-farm Businesses” shall comply with each of the following:
  - a. The “Farm” owner, a person residing on the “Farm” parcel, or the lessee of a portion of the “Farm” shall operate the business.
  - b. The “Farm” meets the threshold criteria for the applicability of the “RAP rules” as set forth in those rules.
  - c. Accessory on-farm businesses sell “qualifying goods or services” from the farm, outside, or inside new or existing structures.

Once the DRB finds that the activity qualifies as an “accessory on-farm business” The DRB shall review the application subject to its Site Plan Review process as listed in Sections 360 -365 of these regulations. As part of the site plan review the DRB may also incorporate appropriate standards from Article VI, governing Access and Parking, Article VII. Governing Signs and Article 8 governing Performance Standards. The DRB’s review of the application only relates to Waltham’s permitting process. Other permits, including a potable water and wastewater system permit under 10 V.S.A. chapter 64, may be necessary from the State of Vermont.

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

### **Section 610: OFF-STREET PARKING SPACE REQUIREMENTS**

For every building hereafter erected, altered, extended, or changed in use, there shall be provided off-street parking spaces as necessary to satisfy the intended use of the structure.

Residential Uses Including Planned Unit Developments: One-family and two-family dwelling units: 1.5 parking spaces for every unit. Multiple-family dwelling units: four parking spaces for every three units. If the development will be occupied solely by senior citizens, (persons over 65 years of age) the parking requirement shall be one space per unit.

Commercial, Business and Unspecified Uses: Driveways for structures and uses other than one- and two-family dwellings shall be at least twenty feet clear in width.

Handicapped Parking Spaces: In addition to the applicable parking space requirements indicated above, all structures shall include designated handicapped parking spaces within off-street parking lots in accordance with applicable state and/or federal regulations.

Landscaping: All off-street parking areas in excess of 10 parking spaces shall provide landscaped areas equal to at least 10 percent of the total parking area. Such landscaping may consist of trees, shrubs, or flowers provided that all landscaped areas are regularly maintained and that any dead or dying trees or plants are replaced no later than the following planting season. Furthermore, all required landscaped areas shall be integrated into the parking lot design and not relegated exclusively to one concentrated location or to the edges of the parking area. These landscaping requirements are in addition to all other landscaping requirements specified in Section 440 of these Regulations.

### **Section 611: DRIVEWAYS**

The design, construction, landscaping, or location of driveways should conform to the following conditions in order to ensure safety, provide access by emergency vehicles and minimize traffic difficulties. Specific standards for driveways include:

1. To provide for fire and ambulance access, driveways shall be constructed and maintained with an unobstructed corridor of at least 12 feet in width, minimum vertical clearance of 14 feet, a minimum outside curve radius of curvature of 48 feet, and a recommended grade of 10%, and shall not exceed 15% slope.
2. No driveway shall be constructed in a corridor of land or ROW having a width of less than 50 feet. To provide room for snow, drainage and landscaping a driveway shall be set back at least 5 feet from the lot or right of way lines. This is unless a ROW of less than 50 feet but greater than 20 feet minimum exists that predates August fifth, 2013, in which case that ROW is acceptable.
3. A driveway shall be constructed in accordance with Agency for Transportation Standard B-71 with respect to side slope and site distances only.
4. Drives serving more than one property shall be permitted only where the interests of both property owners will be protected by a deed or agreement providing for the private joint maintenance of the driveway.

### **Section 612: LOADING AND SERVICE AREAS**

Where a proposed development will necessitate frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may be required for emergency vehicles, loading and unloading, waste disposal and collection, bus, taxi, or van service, and such other purposes as may be necessitated by the proposed use. Each loading bay shall measure at least 50 feet by 14 feet, except that the minimum bay length may be reduced to 25 feet if the proposed use is a cottage industry, home-based businesses, bed and breakfast, home, inn, or a commercial use with less than 2,000 square feet of usable floor area.

All loading and service areas or bays shall be located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections to or from any internal (on-site) or external (off-site) road or access way. In addition, the service areas shall be laid out to prevent conflicts between emergency vehicles and all other types of vehicular service. Additional lighting, which conforms to the requirements in Section 820, may be required in certain loading or service areas if deemed necessary by the Development Review Board or Development Review Board to promote safe internal traffic circulation.

## **Section 620: ACCESS PERMIT**

Any activity for which a zoning permit is required and which involves the construction or modification of a driveway intersecting with a public right-of-way shall obtain an access permit from the 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. The Board of Selectmen may set specific standards.

## **Section 630: STORAGE OF VEHICLES IN RESIDENTIAL AREAS**

In any residential area, except as a conditional use in the HC 10 district, more than 3 uninspected and/or unregistered motor vehicles designed for use on public roads and required to be registered and inspected by the state must be stored in an enclosed garage or screened from view.

## ARTICLE VII: SIGNS

### Section 710: GENERAL

No signs shall be permitted without a zoning permit and meeting the following criteria, unless exempted pursuant to section 711 of these Regulations.

### Section 711: EXEMPT SIGNS

The following signs are permitted without a permit when located on the immediate property:

1. One unlit professional or home occupation sign, not exceeding four square feet.
2. One temporary real estate sign, not exceeding six square feet.
3. Directional or information sign not exceeding four square feet.
4. Non-advertising signs necessary for public safety or welfare.
5. Signs erected by the state or town on roads.
6. One residential sign per dwelling identifying the occupant, not to exceed two square feet in area and residential flags or banners not intended for advertising purposes.
7. Temporary lawn auction or garage sale signs removed immediately following the event;
8. Temporary election signs to be posted and removed according to state law.
9. Temporary signs or banners displayed on Town property, with the permission of the Select Board, advertising a public or community event that are removed immediately following the event.
10. Unlit permanent signs associated with agricultural operations not to exceed 16 square feet in area and ten feet above the ground.
11. Signs related to trespass or hunting not exceeding two square feet.
12. Historic landmark signs less than 16 square feet in area and 10 feet above the ground.
13. Unlit seasonal signs associated with farm operations not to exceed 4 square feet may be put on town property with the permission of the Select Board.

### Section 720: 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 730: WALL, PROJECTING, GROUND, AND ROOF SIGNS

The Zoning Administrator may permit a total of one of any of the following types of signs for any structure or parcel used for non-residential purposes.

1. Wall Signs: Every wall sign shall:
  - a. Not exceed the highest point of the building's roof.
  - b. Not exceed thirty-two square feet.
  - c. ***For HC District, also SEE DESIGN STANDARDS in SECTION 230 D.***
2. Projecting Signs: Every projecting sign shall:
  - a. Not extend beyond the street line.
  - b. Not extend more than four feet from the building wall.
  - c. Not be less than ten feet above the surface of a public walkway area.
  - d. Not exceed sixteen square feet.

3. Ground Signs. Every ground sign shall:
  - a. Not exceed twenty feet in height above the finished grade.
  - b. Be set back at least twenty feet from any street line, and at least ten feet from any other lot line.
  - c. Not exceed twenty square feet.
4. Roof signs shall not be permitted in any zoning district.

#### **Section 740: COMPUTATION OF PERMISSIBLE SIGN AREA**

When computing the total permissible sign area for any use:

1. Existing signs shall be included.
2. The total area of all signs shall not exceed the requirements as set forth in these regulations.
3. Signs consisting of freestanding letters, numerals, or other devices shall include any intervening spaces between them.
4. Only the larger faced area of a double-faced sign shall be used.
5. Back-to-back signs may be counted as one sign.

#### **Section 750: TRAFFIC, HAZARD, SAFETY, AND OBSTRUCTION**

Every sign shall be designed and located in such a manner as to:

1. Not impair public safety.
2. Not restrict clear vision between a sidewalk and street.
3. Not be confused with any traffic sign or signal.
4. Not prevent free access to any door, window or fire escape.
5. Withstand a wind pressure load of at least thirty pounds per square foot.

#### **Section 760: ILLUMINATED AND FLASHING SIGNS**

A steady light may illuminate signs 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.

## **ARTICLE VIII: PERFORMANCE STANDARDS**

No land or building in any zoning district shall be used or occupied in any manner 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. Consistent with the intent of the Waltham Town Plan's desire to protect and encourage agriculture and the statutory exemption of agriculture and silvicultural from zoning regulations, these regulations should be read to be consistent with supporting the "Right to Farm". Accordingly, these performance standards shall not apply to agriculture or silvicultural operations or activities conforming with accepted agricultural practices or best management practices for silvicultural.

### **Section 810: NOISE**

No noise that 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.

### **Section 820: OUTDOOR LIGHTING**

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

All outdoor lighting and illuminated signs shall be installed, constructed and maintained to minimize the intrusion of light across property lines, eliminate upward illumination and reduce glare and to maximize the effectiveness of site lighting by limiting light to a target area. No glare, lights, or reflection shall be permitted which is 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.

#### **B. General Requirements:**

Light from outdoor lighting fixtures must not go up into the night sky, shine across boundary lines and create light trespass on neighboring properties, or shine into roadways to create a visual hazard for drivers. The installation of outdoor lighting fixtures shall be governed as follows:

1. Fixture Design – With the exceptions listed below, all outdoor lighting fixtures must be mounted and maintained so that direct light is aimed downward to target areas such as entrance doors, deck surfaces, walkways, and specific areas on the ground.
2. Fixture Placement - All building mounted fixtures must be located below the roof line.
3. Pole or tree mounted lighting fixtures shall be fully shielded. Mounting heights of pole mounted fixtures shall not exceed 25 feet from the bottom of the light emitting part of the fixture. Pole mounted outdoor lighting fixtures located more than 100 feet from a building require a building permit.
4. Strobe lights, flashing lights, and laser illumination, are prohibited.

#### ***C. Hours of Operation:***

Outdoor lighting shall be regulated as follows:

A. All non-residential outdoor lighting, with the exception of streetlights and safety or security lighting as defined herein, may be turned on no earlier than one hour before business hours and shall be turned off no later than 11 PM or one half an hour after close of business, whichever is later.

1. Business hours, as used here, is defined as the period of time during which at least one person is present for the purpose of conducting or concluding business on the lot or in a structure on the lot.
2. Safety and Security lighting, as used here, is lighting to safeguard the movement of persons by foot or by non-motorized vehicles or by vehicles for disabled persons over hazardous footing or in areas that conflict with vehicle traffic, or lighting for the purpose of aiding the visible detection and recognition of other persons. This includes lighting for entrance doors, stairs, pedestrian ramps and tunnels, and pedestrian routes that are reasonably expected to be used after business hours

#### ***D. Exceptions:***



1. Seasonal Lighting – each seasonal display may be operated for no more than a total of 40 days per display, or 60 days for all displays combined per year without obtaining a temporary use permit. LED and laser projection lights are permitted provided they do not create a nuisance to other property owners or tenants or, impair the vision of a driver of any motor vehicle, or are detrimental to public health, safety, and welfare.
2. Ground mounted solar powered landscape/pathway lights – limited to downward focused fixtures with a maximum of 15 lumens per fixture

#### **E. Definitions:**

##### **Direct Light:**

Light emitted directly from the lamp, from the reflector or reflector diffuser, or through the refractor or diffuser lens of a lighting fixture.

##### **Fully Shielded:**

Constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the lighting fixture, is projected above a horizontal plane passing through the lowest direct-light-emitting part of the fixture

##### **Lamp:**

The light source component of a lighting fixture that produces the actual light.

##### **Lighting Fixture:**

A complete outdoor lighting unit including a lamp or lamps, together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply, but not including a pole on which the lighting fixture may be mounted.

##### **Light Trespass:**

Direct or indirect light produced by an artificial light source, and which shines outside the boundaries of the lot containing the lighting fixture.

## **Section 830: FIRE, EXPLOSIVE, AND SAFETY HAZARDS**

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.

## **Section 840: NOXIOUS GASES AND WASTES**

Uses are not permitted that would emit any noxious gases which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to cause injury or damage to property, business, or vegetation. Any uses that cause harmful wastes to be discharged into the sewer system, streams, or other bodies of water also shall be prohibited. Effluent disposal shall comply with the local and state sewer health standards.

## ARTICLE IX: FLOOD HAZARD AREA REGULATIONS

### Section 901: STATUTORY AUTHORIZATION

To affect the purposes of 10 V.S.A. Chapter 32, and in accord with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, Section 4410, 4411, and 4424, there are hereby established zoning regulations for areas of special flood hazard in the Town of Waltham.

### Section 902: 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:

1. Restricting or prohibiting use that are dangerous to health, safety, or property in times of flood or cause excessive increase in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time initial construction;
3. Protecting individuals from buying lands that are not suited for their intended purposes because of flood hazard.

### Section 903: LANDS TO WHICH THESE REGULATIONS APPLY

These regulations shall apply to all lands in the Town of Waltham, VT identified as areas of special flood hazard on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), dated August 5, 1986, and any revisions thereto.

### Section 904: OFFICIAL FLOOD HAZARD AREA MAP

The Official Flood Hazard Area Map shall consist of the Flood Insurance Rate Maps (FIRM). The entire FIRM Map is hereby adopted by reference as part of these regulations. Table V below outlines the specific activity allowances for Flood Hazard Areas and Floodways. The table categorizes activities as permitted (P), conditional (C), prohibited (X), and/or acceptable/exempt of review (A).  
V. Summary Table: Development Review in Hazard Areas

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

**New structures are prohibited in the flood hazard areas. New development should not increase the base flood elevation.**

## **Section 905: INTERPRETATION OF DISTRICT BOUNDARIES**

The Zoning Administrator 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 the official Flood Hazard Area Map and by obtaining, reviewing and reasonably utilizing any base flood elevation data available from a federal or state agency. Interested Persons may appeal the decision of the Zoning Administrator by filing an appeal with the Development Review Board pursuant to the provisions of Sections 370 – 375 of these regulations.

## **Section 906: PERMIT REQUIRED; PERMITTED USES**

A permit from the Zoning Administrator or the Development Review Board is required for all development in areas of special flood hazard. Upon issuance of a permit by the Zoning Administrator, 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 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.

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

## **Section 907: CONDITIONAL USES**

All new construction, substantial improvement, and development uses prescribed by the Town of Waltham zoning ordinance that do not meet the requirements of Section 906 and fall within the designated area of special flood hazard are permitted only upon the granting of a conditional use permit by the Development Review Board in accordance with the procedures and requirements of Sections 910, 911, and 912 of these regulations.

## **Section 908: PERMIT REQUIREMENTS AND APPLICATIONS**

A zoning permit is 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 Zoning Administrator, on forms furnished by him or her, 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 905 of these regulations.

If the proposed use will be located in the areas of special flood hazard and meets all the requirements of Section 906 of these regulations, the Zoning Administrator shall issue a zoning permit. If the proposed use does not meet the requirements of Section 906, the Zoning Administrator shall refer the applicant to the Secretary of the Development Review Board.

## **Section 909: RECORDS**

The Zoning Administrator shall maintain a record of:

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

## **Section 910:           CONDITIONAL USE REVIEW PROCEDURES**

Upon receiving an application for a conditional use permit under these regulations, the Development Review 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 are in accordance with accepted standards of practice for meeting the flood proofing criteria of Section 912(1)(b) 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.

In addition, the Development Review 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 (2' in the area proposed for development, 10' elsewhere), 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 sufficient to allow the Board of Adjustment to determine that all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effect of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. That all other permits have been received from those governmental agencies for which approval is required.
6. In unnumbered A zones, the Development Review Board shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, as criteria for approval of all new construction and substantial improvements under Section 912(1), (2) and (3) below.
7. The Development Review Board shall notify adjacent communities and the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Division prior to approval of an alteration or relocation of a watercourse and shall submit copies of such notifications to the FEMA Administrator.
8. The Secretary of the Board of Adjustment shall transmit one copy of the information required by subsections 910(1) and (2) to the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Division in accordance with 24 V.S.A. Section 4424(D)(1).
9. In reviewing each application, the Board of Adjustment shall consider the evaluation of the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Division and shall determine that the proposed use will conform to the development standards of Section 7.12 of these regulations.
10. In accordance with 24 V.S.A. Section 4424(D)(2), no permit may be granted for new construction or the development of land in any area designated as a flood plain prior to the expiration of a period of 30 days following the submission of a report to the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Division under Section 910(5) above.

## **Section 911: CONSIDERATIONS BY THE DRB**

In reviewing each application, the Development Review Board shall consider:

1. The danger to life and property due to increased flood heights or velocities caused by encroachment;
2. The danger that materials may be swept onto other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
5. The importance of the services provided by the proposed facility to the community;
6. The necessity to the facility of a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed use to the proposed comprehensive plan, insofar as it has been developed;
10. The safety of access to the property in times of flood of ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
12. The costs of providing governmental and public facilities and services during and after flooding;
13. Such other factors as are relevant to the purposes of this ordinance.

## **Section 912: CONDITIONS FOR CONDITIONAL USE APPROVAL**

As a condition of approval, the Development Review Board may specifically attach conditions as are necessary to meet the purposes and flood hazard area management requirements of these zoning regulations including:

1. 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;
2. 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 effects of buoyancy;
3. 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 either be 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 floodwaters;
4. Structures shall be designed (or modified and adequately anchored) to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, be constructed with materials resistant to flood damage, be constructed by methods and practices that minimize flood damage, and 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;
5. 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;
6. All new and replacement water supply systems shall be designed so as to minimize or prevent the infiltration of flood waters into the system;
7. 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 system into floodwaters;
8. All on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

9. 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;
10. All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law;
11. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained;
12. All land development shall be reasonably safe from flooding;
13. 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
14. Adequate drainage is provided within subdivisions to reduce exposure to flood hazards.

### **Section 913: TIME FOR ACTING ON APPLICATION**

The Development Review Board shall act on an application pursuant to the provisions governing Conditional Use Review as set forth in Sections 350-356 of these regulations and conduct its review of criteria described in Sections 911 and 912, subject to the limitations of Section 910(6) and 910(7) of these regulations.

### **Section 914: ISSUANCE AND TRANSMISSION OF PERMITS**

Upon approval or disapproval of a conditional use or a reversal of a decision by the Zoning Administrator, the Development Review 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 Zoning Administrator, who shall forthwith issue a permit, and to the Town Clerk as a part of the public record. (See Section 341C of these regulations.)

### **Section 915: EFFECTIVE DATE**

A permitted use permit shall take effect 15 days from the date of issuance after the expiration of the appeal period. Conditional use permits shall take effect upon the expiration of the appeal period to the Environmental Court. (See Section 324, 341D and 399 respectively.)

### **Section 916: APPEALS**

An interested person, as defined in 24 V.S.A., Section 4465(b), may appeal a decision of the Development Review Board to the Environmental Court in accordance with the provisions of Section 399 of these regulations and 24 V.S.A. Section 4471.

### **Section 917: VARIANCES**

Variances to the flood hazard development criteria shall be granted by the Development Review Board only:

1. In accordance with the provisions of 24 V.S.A., Section 4469 and C.F.R. §60.6;
2. 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 Development Review Board shall notify the applicant that the issuance of a variance to construct a structure below the base flood level:

1. Will result in increased premium rates for flood insurance commensurate with the resulting increase in risk;
2. Increase risks to life and property.

The Secretary of the Development Review Board shall:

1. Maintain a record of all variance actions, including justification for their issuance, and
2. Report such variances issued to the Administrator upon request.

## **Section 918: FEES**

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

## **Section 919: WARNING OF DISCLAIMER OF LIABILITY**

These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Waltham 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 920: PRECEDENCE OF REGULATIONS**

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

## **Section 921: ANNUAL REPORT TO FEMA**

The Zoning Administrator shall, to the extent possible, submit to the 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.



## **ARTICLE X: SUBDIVISION REVIEW**

### **Section 1001: PURPOSE**

The Subdivision Regulations of the Town of Waltham supplement Zoning Regulations and other Town regulations to provide a process for implementing the Town Plan (“the Plan”). The fundamental principles of the Plan, to protect and enhance the Town’s most important community assets (natural, environmental, social, aesthetic and economic) and to assure the individual’s freedom to use and enjoy his or her own property in ways that do not impinge on the rights and well-being of his or her neighbors, are reflected in these regulations.

While growth is expected, the Plan recognizes that the scale of the Town’s services and the physical characteristics of the Town are best suited to small-scale enterprises and a moderate rate of growth in housing. These regulations provide a process for evaluating proposed subdivisions in the context of these physical limitations and the Town’s expressed long-term goals regarding maintaining its natural resources and rural character.

### **Section 1002: JURISDICTION OF REGULATIONS**

Whenever any subdivision of land is proposed to be made, before any contract for the sale of such a subdivision or any part thereof is made, before any permit for the erection of a structure in such a proposed subdivision is granted, and before any plat or subdivision deed may be filed with the Town Clerk, the Applicant, or his/her authorized agent, shall apply in writing to the Development Review Board for and secure approval of the proposed subdivision in accordance with the provisions of these regulations.

### **Section 1003: GENERAL OVERVIEW**

This Section explains the process applicants will need to go through to secure a subdivision permit. It begins with the application for sketch plan review, an informal meeting between the applicant and the Development Review Board. Minor Subdivisions will proceed to a final hearing because they involve less complicated issues and can generally be closed in one hearing. Major subdivisions will

move to a hearing on preliminary plat. Both hearings constitute a more formal hearing process offering the opportunity for all parties with an interest in the project as it is proposed to participate before the Board. For Major subdivisions, if an applicant’s proposed subdivision is approved at the preliminary plat phase, the process moves to the hearings on the final plat. For both major and minor subdivisions, after the hearing on the final plat closes, the Development Review Board will issue a written decision on the proposed project. The project will be approved or denied for cause. If approved, the local process ends with the filing of the Final Plat in the town land records and fulfillment of conditions, if any, on the approved application. Parties to the decision may appeal it.

### **Section 1010: WAIVERS AND VARIANCES**

Waivers and variances to the provisions of these Subdivision Regulations or to the Zoning Regulations pursuant to Section 450 of the Zoning Regulations governing PUDs shall be considered under the following conditions and limits.

### **Section 1011: WAIVERS**

The Development Review Board may waive those requirements of these Subdivision Regulations that, in its opinion, are inappropriate due to:

1. The size, location or land form of a particular lot or subdivision;
2. A lack of connecting facilities adjacent to or in close proximity to the proposed subdivision;
3. An adverse influence on the public health, safety or general welfare of the residents of the area; or
4. If the condition fails to implement the Town Plan.
5. The failure of the cost, time or effort of the requirement to justify themselves in light of the proposed application.

## **Section 1012: VARIANCES FOR PUDs**

Where the Development Review Board finds that variances of setbacks or other standards in the zoning are appropriate to institute a PUD, it may vary such standards, subjecting the applicant to appropriate conditions. In granting variances, the Development Review Board shall require such conditions as will, in its judgment, substantially secure the objectives of the requirements so waived or varied.

## **Section 1013: LIMITATIONS**

In no case shall waivers or variances approved under the provisions of this section constitute waivers or variances of the provisions of any other Town Regulation or Ordinance. No waiver or variance may be granted if it would have the effect of contradicting the intent or purpose of the comprehensive Town Plan.

## **Section 1014: APPLICATION**

All requests for waivers and variances shall be made by the applicant in writing, and shall provide such information as may be necessary for the Development Review Board to reach a decision regarding such waivers and variances.

# **SUBDIVISION APPLICATION AND REVIEW PROCEDURE**

## **Section 1020: SKETCH PLAN**

The Sketch Plan phase of an application is the most informal phase of the process and constitutes a chance for the Applicant to make a proposal and receive feedback and guidance from the Development Review Board regarding the proposal's general compliance with the goals of the Town Plan or other regulations adopted under that Plan and with specific requirements for items to be included in the preliminary plat.

## **Section 1021: SKETCH PLAN APPLICATION**

The Applicant shall submit one original and two (2) copies of a Sketch Plan of the proposed subdivision to the Zoning Administrator at least fifteen days prior to the regular meeting of the Development Review Board. The following information shall be submitted for consideration with a sketch plan application for a Subdivision:

1. Subdivision name or title and address at which it is located;
2. Names and addresses of Applicant and professional advisers;
3. A map drawn at a scale sufficient to depict the entire parcel subject to the subdivision application and to allow the Development Review Board to locate the parcel within the municipality and to view it in the context of the land surrounding the parcel; depicting the subdivision and important features, including existing development or roads, planned infrastructure and roads, significant natural areas or other areas of interest or concern;
4. Description of proposed easements and/or covenants encumbering the property.
5. A statement by the Applicant concerning the use of any adjoining property owned or controlled by the landowner or Applicant, if different.

## **Section 1022: SKETCH PLAN MEETING**

1. The Zoning Administrator shall notify the Development Review Board of the application, set the meeting and contact the Applicant with the date, time and schedule of the meeting. Applicant, or its duly authorized representative, shall attend the meeting.
2. The Development Review Board shall study the Sketch Plan to determine whether or not it conforms to, or would be in conflict with: Zoning Regulations, the Town Plan, developments proposed by any public agency, existing private and public development, facilities and services, and for any special problems.
3. The Development Review Board may adjourn and reconvene the meeting to a future date if further discussion and/or the presentation of additional information on the sketch plan are deemed necessary.

4. Where the Applicant submits a proposed Planned Unit Development (PUD) pursuant to Section 450 of these regulations, the Development Review Board may simultaneously review the project under the criteria established in both these Subdivision Regulations and the requirements of Section 450 of the Town's Zoning Regulations.
5. The principle purposes of the sketch plan meeting shall be to:
  - a. Determine whether the project, as described in the applicant's sketch plan, meets the requirements of these Regulations;
  - b. Classify the applicant's project as either a major or a minor subdivision (*see Definitions*); and
  - c. Specify the detailed information that will be required for review of the application at a public hearing, or hearings, on the project to be convened by the Development Review board.

## **Section 1023: FINDINGS AND DECISION, SKETCH PLAN**

Within forty-five (45) days of the completion of the sketch plan meeting, the Development Review Board shall inform the applicant in writing of its classification of his/her project, and what information will be required to be submitted to the Development Review Board prior to the formal hearing (Final Plat, Minor), or hearings (Preliminary and Final Plat, Major), on the application.

## **PRELIMINARY PLAT (MAJOR) AND FINAL PLAT (MINOR) APPLICATION AND REVIEW PROCEDURE**

### **Section 1030: MINOR AND MAJOR SUBDIVISION PROCEDURE**

Within six months after classification of the Sketch Plan as a Major or Minor Subdivision by the Development Review Board, the Applicant shall submit an application for approval of a Final Plat (for a minor) or a Preliminary Plat (for a major) according to the procedures and requirements below. If the applicant fails to submit the plat application within 6 months, the Development Review Board may require resubmission of the Sketch Plan for reclassification. The plat should substantially conform to the layout shown on the Sketch Plan plus any recommendations made by the Development Review Board in its findings from the Sketch Plan Hearing.

### **Section 1031: PLAT APPLICATION AND REVIEW PROCESS**

The Plat application and review process shall be the same for major and minor subdivisions, except that:

1. Minor subdivisions may require only one hearing;
2. Because of minor subdivisions presumed smaller size and impact, the Development Review Board will generally waive many of the application criteria for minor subdivisions;
3. Because of minor subdivisions presumed smaller size and impact, the review criteria for minor subdivisions will be more limited;
4. If a minor subdivision is re-subdivided within 6 years, it becomes a major subdivision
5. A minor subdivision shall meet all zoning requirements and require no new roads.
6. If the Zoning Administrator identifies any difficulty with a minor subdivision, he/she can request the Development Review Board change the subdivision to a major subdivision.

### **Section 1032: APPLICATION**

The Applicant shall file an original application and plat drawings and two (2) copies of all material necessary for the Development Review Board to conduct its review. The Application and plat drawings shall contain information and references necessary for the Development Review Board to put the application into the context of its location within the town and on the parcel it occupies. As such, they shall include all information included on the sketch plan, plus any additional information requested by the Development Review Board in its decision regarding the sketch plan and the following:

### **A. Written Application Material**

1. A statement of the compliance of the proposed subdivision with the provisions of the Town Plan, the Town's Zoning Regulations – including reference to any zoning variances that may be requested – and any other Federal, State and Town statutes and regulations that may pertain to the proposed development;
2. A description of the proposed water supply for the project. If the source is a community water supply system, evidence of the right to use the system and the adequacy of the system to meet the project's water supply requirements shall be presented. All design criteria shall conform to the requirements of the applicable State health regulations and water supply rules;
3. A description of the proposed sewage disposal system for the project. If an on-site sewage disposal system is proposed, a soils test report and system design data prepared by a registered professional engineer or a certified site technician in accordance with the provisions of the State's environmental protection rules and the Town's Sewage Ordinance shall be provided.
4. A description of all existing and proposed street right-of-way boundaries, street widths, typical road, walkway and utility profiles, dimensions and sizes of all lots, locations of all existing and proposed structures, walkways, amenities, utilities and other man-made improvements on the site; the description shall include the locations of temporary markers, to allow the Development Review Board to appraise the basic layout of the proposed subdivision in the field.
5. Evidence that the traffic generated by the proposed project will not cause the capacity of roadways and intersections in the area to be exceeded. Information to be provided shall include but not be limited to current traffic volumes, current excess capacities or deficiencies, trip generation estimates and their impact on capacities, and light/stopping distances for new road intersections with existing Town highways;
6. Evidence that the school-age population of the proposed subdivision can be accommodated in the Town's existing school facilities, or that it conforms to the provisions of the Town's capital improvement plan and budget for the school;
7. A description of any proposed covenants and/or deed restrictions which are intended to all or part of the subdivision, and a description of the homeowners' association or any other form of management organization for the subdivision, if such is proposed.

### **B. Plat Application Requirements**

In addition to the information above, the Applicant shall provide a plat and, as necessary, backup detail drawings. All drawing sheets shall be clearly marked with a Subdivision name or title, the address at which it is located, a scale, north point, date and key of other information. The plat and other drawings shall not be more than 36" long nor more than 24" wide and shall be drawn to a scale large enough to show the details clearly, but shall not be less than 1" x 100'. A one-half (1/2) inch marginal borderline shall be drawn around the outer edge of each plan and all data to appear thereon shall be within said marginal lines. The plat and backup drawings shall depict the following, except where a waiver is authorized by the Development Review Board pursuant to its authority under Section 1011 of these regulations.

1. A survey of the property to be subdivided depicting Subdivision boundaries and boundaries of contiguous properties and names of owners of all parcels of land directly abutting or directly across any street abutting the proposed subdivision or an abutting parcel owned or controlled by the applicant. Depending upon the proposed use and the size of the parcel involved, the Development Review Board may require a survey of only the relevant portion of the parcel being subdivided.
2. Total acreage of subdivision and number of lots proposed. Commercial buildings shall be depicted on the lots.
3. Zoning or other existing district or boundaries, if any (County, Historic, Downtown, Water/Wastewater/Fire, etc.)
4. Existing infrastructure or landmarks or features:
  - a. Existing streets and structures, existing sewers, water mains, storm drainage, culverts, with pipe sizes and direction of flow.
  - b. Existing utilities, including gas lines, fire hydrants, electric and telephone facilities, streetlights.
  - c. Existing watercourses, marshes, wooded areas, public facilities and other significant physical features in and near the subdivision.
  - d. Contours with intervals of not more than 10 feet. Contours with intervals of not more than two feet, established by a field survey, shall be shown in the vicinity of any proposed development or where the grade is less than five percent; or where the high ground water elevation is within six feet of the existing or proposed ground level; or in the case of waterfront or riverfront property.
5. Proposed lot layout and infrastructure:
  - a. Proposed pattern of the lots including typical lot width, depth, street layout, open space, systems of drainage, sewerage and water supply within the subdivided area.
  - b. Location, width and approximate grade of proposed streets.
  - c. Location, dimensions, area and number of lots and blocks.
  - d. Location and dimensions of property to be dedicated for public use, if any.

- e. Boundaries of proposed easements over private property.
  - f. Location of proposed wastewater or water systems.
  - g. Location of other proposed utilities including telephone, electric and cable.
  - h. Location of proposed provision of water supply, fire protection, disposal of sanitary wastes, storm water drainage and sidewalks, if applicable.
6. A preliminary grading plan for the site, showing areas of cut and fill and the revised contours of the parcel, drafted at a contour interval of not more than (10) feet;
  7. A storm water drainage plan, drafted at a contour interval of not more than ten (10) feet, indicating methods of collecting and discharging runoff, as well as methods of temporary and permanent erosion control, including preliminary design data prepared by a registered professional engineer and certified to be in compliance with Section 442 of these Regulations.
  8. A preliminary landscaping plan for the subdivision, showing the types of ground cover, lighting and signage, and the existing features and trees to be retained on the site;

### **Section 1033: TIME**

The application for approval of the plat, complete with all other requirements, shall be submitted to the Town Clerk on behalf of the Development Review Board at least twenty-five days prior to the date of the regular monthly meeting of the Development Review Board. Assuming the application is complete, the official submission date shall then be the date of the first review of the Development Review Board. The Development Review Board will set a date and place for a public hearing within 60 days of the filing of the application.

### **Section 1034: NOTICE**

Public Notice of hearing shall be given as required by the Act and shall be the same as that required in **Section 341(A)** of these Regulations. Public Notice of hearing for plat review for subdivisions shall be given not less than **15 days** prior to the date of the public hearing **on preliminary plat for major subdivisions and final plat on minor subdivisions** by all the following:

1. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected. The Zoning Administrator or clerk of the Development Review Board shall place the notice in the paper.
2. Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting the permit information within view from the public right-of-way most nearly adjacent to the property for which an application is made. The clerk or Zoning Administrator shall post notices two places within town. The applicant shall be responsible for posting the property.
3. Written notification to the applicant or appellant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal. The Zoning Administrator shall be responsible for notifying all adjoining landowners and shall do so by a certificate of mailing or hand delivery. At the first hearing, the Zoning Administrator shall demonstrate compliance with this provision by producing a copy of the letter sent, a list of those it was sent too and the certificate of mailing demonstrating that the letters were sent (The Zoning Administrator need only demonstrate that the letter was sent, not that it was received) or signed receipts if the letter was hand-delivered.
4. A copy of the notice shall be sent to the clerk of an adjacent municipality in the case of a plat located within five hundred feet of a municipal boundary at least fifteen days prior to the hearing.

### **Section 1035: REVIEW PROCEDURES**

The Review Procedures shall be the same as those laid out in **Section 341(B)** of these regulations. Pursuant to the requirements of 24 V.S.A. § 4461 the Development Review Board shall set a date and place for a public hearing of an application within 60 days of the filing of a complete application. The Hearing shall be conducted as follows:

1. The applicant or its agent shall attend the hearings.
2. Any person or body empowered by Section 24 V.S.A. § 4465 to participate as an interested party or to take an appeal with respect to that property at issue may appear and be heard in person or be represented by an agent or attorney at the hearing.
3. The Development Review Board may adjourn the hearing from time to time; provided, however, that the date and place of the adjourned hearing shall be announced at the hearing.

4. All hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. §810.
5. The Development Review Board shall review the information submitted for conformity to these Regulations.
6. The Development Review Board may conduct a site visit where it deems appropriate and shall have the right to continue the hearings to a date certain if it deems it necessary to gather further information. If the DRB requests a site visit, the Applicant shall provide markings noting the approximate location of the lots to be subdivided, roads and other important features.
7. In addition, the DRB may require that the Applicant submit its plans to an engineer representing the town for an independent review. The cost of the review shall be in addition to the application fee and shall be borne by the Applicant. Before the Town engages the services of a person or firm to conduct a specific independent technical review, it shall provide an applicant with notice of the same and an opportunity to be heard on any proposed review.
8. After submittal of all evidence and testimony, the Development Review Board shall close the hearing.

## **Section 1036: DECISIONS**

The Development Review Board shall issue a written decision, which shall include findings of fact, any conditions, and provisions for appeal within 45 days after completing the hearing and shall within that period send the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every interested person who appeared and was heard at the hearing. A copy of the decision shall be filed with the zoning administrator and the town clerk who shall record the decision as a public record. If the Development Review Board fails to make a decision within 45 days, on the 46<sup>th</sup> day the Development Review Board shall be deemed to have rendered a decision in favor of the applicant. When granting approval to a plat, the Development Review Board will state the conditions with respect to:

1. Special changes that it may require.
2. Character and extent of the required improvements for waivers.
3. Amount of improvement or the amount of all bonds that it will require.

For major subdivisions, approval of a Preliminary Plat shall not constitute approval of the Subdivision and prior to the approval of the Final Plat; the Development Review Board may require additional changes as a result of further study.

Section 1040: Final Plat Application and Review for Major Subdivisions

## **FINAL PLAT REVIEW PROCESS FOR MAJOR SUBDIVISIONS**

### **Section 1041: APPLICATION**

Within one year of approval of the preliminary plat, unless waived for cause by the DRB, the Applicant shall file an original and two (2) copies of all material necessary for submittal of a complete application for approval of the Final Plat. The Final Plat shall:

1. Conform to the approved Preliminary Plat, plus any recommendations or additional information required by the Development Review Board;
2. Include a deed description and a map of survey of tract boundary made and certified by a licensed land surveyor, tied into established boundary monuments.
3. Include sufficient data to determine readily the location, bearing and length of all street, lot and boundary lines, referenced to established monuments.
4. Identify and include the location, dimensions and names of all sites for residential, commercial, industrial, public, non-public, dedicated and reserved uses.
5. Include the location, material and size of monuments.
6. Carry the following endorsements: APPROVED BY RESOLUTION OF THE TOWN OF WALTHAM DEVELOPMENT REVIEW BOARD, VERMONT, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_, SUBJECT TO ALL REQUIREMENTS AND CONDITIONS \_\_\_\_ OF \_\_\_\_ SAID RESOLUTION.
  - a. SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_.
  - b. BY \_\_\_\_\_
  - c. CHAIRMAN \_\_\_\_\_
  - d. SECRETARY \_\_\_\_\_.



7. The application shall be accompanied by:
  - a. Construction Details for proposed roads and driveways. Proposed roads shall be named in accordance with the guidelines in Section 1034(14) of these regulations.
  - b. Construction Details of existing and proposed sanitary sewers, storm water drains, and fire hydrants; and location and size of water, gas, electricity and any other utilities or structures.
  - c. A State of Vermont Water Supply and Wastewater Permit Application and the supporting designs and plans.
  - d. Applicable State of Vermont Storm water Permit Applications and the supporting designs and plans.
  - e. Other applicable State of Federal Permit Applications.
  - f. Offers of cession to streets and public areas and any agreements with the Selectboard pertaining to the Town of Monkton taking streets or permits issued by the Selectboard authorizing the applicant to work within existing Town Streets.
  - g. Copies of agreements showing the manner in which areas reserved by the Applicant are to be maintained.
  - h. Draft protective covenants whereby the Applicant proposes to regulate land use in the subdivision and otherwise protect the proposed development.
  - i. Other information that the Development Review Board requires.

## **Section 1042: HEARING NOTICE**

The Development Review Board shall hold a public hearing within sixty days after it has accepted the official submission of the final application and plat for approval. The notice shall be issued pursuant to Section 1034 subsections 1, 2, and, if applicable, 4. Additionally, Applicant shall be required to provide written notice of the final plat hearing to all parties that participated in the preliminary plat hearings. The Hearing shall be conducted in the same manner as the preliminary plat, pursuant to 1035.

## **Section 1043: BONDING REQUIREMENTS**

Where a performance bond is required by the Development Review Board, the Applicant shall file with the Town a bond in an amount sufficient to provide for, and secure to the public the full cost of completion of all streets, other required improvements, and their maintenance for a period of two years. The bond must be submitted and approved by the Development Review Board and Town Attorney as to form, sufficiency, manner of execution and surety, for completion of required improvements. The Development Review Board shall specify the time period within which the required improvements must be completed, but in no case for a longer term than three years, unless agreed to by the Applicant. The time period shall be expressed in the bond. Upon completion of the work secured by the bond, prior to the bonds release, the Administrative Officer or Town Engineer must file a certificate stating that all required improvements constructed by the Applicant have been designed and inspected and meet standards in these Regulations, and are as required by law. If any required improvements have not been installed or maintained as provided within the term of such bond, the Town may deem the bond forfeited and use the proceeds to install or maintain such improvements.

## **Section 1045: OFFER AND ACCEPTANCE OF PROPERTY**

1. Formal offers of cession by the Applicant of all streets, rights of way, parks and other sites for public use shall be presented to the Development Review Board and Selectboard prior to Final Plat approval.
2. Offers of cession must be in a form certified as satisfactory by the Town Attorney prior to their acceptance by the Selectboard. The DRB and Selectboard have the option to reject any offer of land, streets, easements or other improvements.
3. The Final Plat shall be endorsed with the necessary agreements in connection with required easements or releases after the Development Review Board has had the opportunity to coordinate with the Selectboard.

## **Section 1046: DECISION**

The Development Review Board shall, within 45 days after completing the hearing, issue a written decision, which shall include findings of fact, any conditions, and provisions for appeal. It shall within that period send the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every interested person who appeared and was heard at the hearing. A copy of the decision shall be filed with the zoning administrator and the town clerk who shall record the decision as a public record. When granting approval to a Final Plat, the Development Review Board will state the conditions with respect to:

1. The Character and extent of the required improvements.
2. The amount of improvement or the amount of all bonds that it will require.



3. The issuance of the state or other permits noted above and compliance with them.
4. The phasing of the development, as it deems necessary from the testimony presented to assure orderly development. or
5. Other special conditions that it may require.

If the Development Review Board fails to make a decision within 45 days, on the 46<sup>th</sup> day the Development Review Board shall be deemed to have rendered a decision in favor of the applicant.

## **Section 1050: APPEALS**

Interested parties who participated in the proceeding before the Development Review Board may appeal the Development Review Board's decision and should file their appeal as outlined in Section 399 of these regulations and 24 V.S.A. §4471.

## **Section 1060: FILING OF APPROVED FINAL PLAT**

When the Final Plat is approved, the Applicant shall:

1. Deliver a Mylar of the plat for execution by the DRB and filing to the Town Clerk within 180 days from the date of approval, plus three copies of the final plat, and, when available, a pdf of the plan emailed to the DRB. Delivery of the Mylar to the clerk does not relieve the Applicant of the duty to ensure that the Mylar is executed and filed in the land records within 180 days from the date of approval.
2. The Plat is void if changes are made to it after the Development Review Board has endorsed it in writing.
3. After filing with the Town Clerk, the Plat shall become part of the Official Map.

## **Section 1061: REQUIRED IMPROVEMENTS**

Required improvements shall be installed to the satisfaction of the Administrative Officer or town engineer prior to approval of Final Plat, or alternatively, the Applicant may post a performance bond.

## **Section 1062: PUBLIC ACCEPTANCE OF STREETS AND IMPROVEMENTS**

1. Every street shown on a plat filed or recorded as provided in these Regulations shall be deemed to be a private street until such time as the Town has formally accepted it.
2. No public street, utility or improvement may be constructed by the Town until it has been accepted and become a public street.
3. Approval of the Final Plat shall not be deemed to constitute or imply acceptance of any street or park shown on the Plat.
4. Upon completion of the construction and installation of required improvements in accordance with the approved plans, the Applicant shall deliver to the Town deeds, abstracts and easements for streets, parks, water lines, storm sewers, sanitary sewers and other required improvements.
5. Prior to public acceptance of any required improvements, the Applicant shall submit an affidavit stating that all bills and accounts for material and labor used in the construction of improvements have been paid in full.

## **Section 1070: STANDARDS FOR APPROVAL**

## **Section 1071: REQUIREMENTS FOR APPROVAL FOR A MINOR SUBDIVISION**

An application for a minor subdivision may be approved by the Development Review Board only if the proposed subdivision complies with the standards set forth in this Article, the Application and Approval Procedures in Article III, and other Town Regulations and Ordinances including:

1. The proposed subdivision must comply with the definition of a Minor Subdivision.
2. All Rights of Way to a public road must be a minimum of 50 ft. wide.
3. Lots created must meet the specific Town Zoning regulations for Lot Area Setbacks, Building Coverage, etc. for the Zoning Districts in which they are located or receive waivers pursuant to applicable PUD provisions.

## **Section 1080: REQUIREMENT FOR APPROVAL FOR A MAJOR SUBDIVISION**

An application for a major subdivision may be approved by the Development Review Board after notice and hearing in accordance with the provisions of these Regulations only if the proposed subdivision complies with the standards set forth in this Article and all other Town Regulations and Ordinances.

## **Section 1081: GENERAL STANDARDS FOR A MAJOR SUBDIVISION**

The applicant shall show that the proposed subdivision complies with the following general standards:

1. **Character of the Land** – All land to be subdivided shall be, in the judgment of the Development Review Board, of such a character that it can be used for building purposes without danger to public health or safety, or to the environment.
2. **Preservation of Existing Features** – Due regard shall be given to the preservation and protection of existing features, including but not limited to trees, scenic areas, brooks, streams, rock outcroppings, hilltops and ridges, water bodies, wetlands, open land, and other natural and historic features. To avoid parcelization, isolation or destruction of such features, irregular or elongated lots may be restricted or prohibited, and the location of structures or other development may be restricted or limited. Certain provisions for PUDs contained within the Zoning Bylaws pertain to the clustering of development in a manner that minimizes the impact on existing features. While the provisions for PUDs are applicable only in certain circumstances, all Applicants may benefit by referring to these sections for guidance in preserving existing features.
3. **Compatibility with Adjacent Uses** – The proposed development shall be compatible with adjacent uses, and shall provide sufficient open space for the recreation, visual and aural privacy, and other domestic needs of the area's inhabitants.
4. **Runoff and Erosion** – Where applicable, subdivision proposals shall include adequate provisions for the control of runoff and erosion, before, during and after construction, in accordance with the guidelines provided by the *Vermont Handbook on Soil Erosion and Sediment Control on Construction Sites*, dated September 1987 and as subsequently revised.
5. **Lot Layout and Configuration** – The layout and configuration of lots shall conform to the principles of the Town Plan and the requirements of the Town's Zoning Regulations, and shall be appropriate for the intended purpose. Consideration shall be given to topography, soil conditions, existing features, natural resources and adjacent uses. Cluster development shall be encouraged and may, at the Development Review Board's discretion be required whenever it is deemed to be feasible and desirable.
6. **Highway Congestion and Pedestrian Traffic** – Proposed subdivisions shall not cause unreasonable highway congestion or unsafe conditions with respect to the current or projected use of highways, streets and roads in the Town. Proposed subdivisions shall contain adequate provisions for pedestrian traffic in terms of safety, convenience and access to appropriate destinations.
7. **Municipal Services and Facilities** – When viewed in the context of existing and un-built but approved subdivisions and developments in the Town, proposed subdivisions shall not place an unreasonable burden on the ability of the Town to provide municipal, educational or governmental services or facilities.
8. **Compliance** – Proposed subdivisions shall comply with the provisions of the Town Plan, the Town's Zoning Regulations, Sewage and Access Ordinances, as amended.
9. **Pollution** – Proposed subdivisions shall not cause unacceptable air, noise, soil or water pollution.
10. **Outdoor Lighting** – If proposed or required, outdoor lighting fixtures shall be of a shielded, downward directed design that does not cast direct illumination outside of a cone having a maximum angle measured from the vertical of sixty (60) degrees. The maximum mounting height shall be thirty (30) feet, and the maximum allowable initial lumen level shall be 15,000. Streetlights shall be located to illuminate intersections, but shall not obstruct vision or otherwise create a vehicular safety hazard.

## **Section 1082: MINIMUM LOT SIZE**

Proposed subdivisions shall comply with the minimum lot size or requirements set forth in the Town's Zoning Regulations, as amended, unless modified by the Section governing PUDs.

## **Section 1083: ROADS AND DRIVEWAYS**

Roads and driveways associated with a proposed subdivision shall comply with the requirements of Town of Waltham Road Ordinance, as amended as well as the following:

1. Intersections of roads and driveway shall be as nearly at right angles as possible.

2. All roads shall have rights-of-way of at least 50 feet in width.
3. All new roads, whether public or private, shall comply with Vermont Agency of Transportation Vermont State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets dated July 1, 1997, as amended for the volume of traffic anticipated. All new roads must meet the approval of the Select Board.
4. Unless roads proposed by an Applicant are dedicated to and accepted by the Select Board, the Applicant shall make arrangements for the maintenance of all such roads to the satisfaction of the Development Review Board.
5. Subdivision projects judged by the Development Review Board to generate traffic that exceeds the existing capacity of adjacent public roads or intersections may be denied, or phased in a manner allowing the improvement of said capacity to better accommodate the project or an Applicant may be required to provide for any or all of the expenses of road or intersection improvements necessitated by his or her project. Proposed subdivisions shall contain adequate provisions for pedestrian traffic in terms of safety, convenience, and access to points of destination.
6. Adequate provision shall be made for general traffic access to all proposed subdivisions, including fire, ambulance and rescue vehicles. Road and driveway entrances and exits for vehicles shall be designed to accommodate expected traffic levels and to provide smooth flow, controlled and coordinated turning movements, and minimal hazards.
7. Road Upgrades – If the proposed access road or driveway intersects a Class 4 Town Highway, the Development Review Board may deny the application. Alternatively, and contingent upon the approval of the Select Board, the Development Review Board may require the Applicant to improve the intersected road to Class 3 Town Highway construction standards. The Development Review Board may also impose conditions on the approval of a subdivision which require the improvement of private roads or drives on the subdivided parcel which, in the judgment of the Development Review Board, are inadequate to handle the increased traffic which may be expected.
8. Streets shall be arranged as to cause no undue hardship to adjoining properties, and shall be coordinated so as to provide for continuation of existing streets to compose an integrated system.
9. The arrangement, width and grade of all streets shall conform as closely as possible to original topography, be considered in relation to existing and planned streets, topographic conditions (Steep grades and sharp curves shall be avoided.), public convenience and safety, and be in their appropriate relation to proposed land uses.
10. Streets within a subdivision shall be planned so their use by arterial through traffic will be discouraged.
11. Clear sight distances shall be maintained between offset intersections. Street intersections shall be approximately at right angles, wherever possible. Specific distances governing each of these goals shall be governed by the State of Vermont; Agency of Transportation State Standards for the Design of Transportation Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets dated July 1, 1997 as it may be revised from time to time.
12. A circular turn around shall be provided at the end of any cul-de-sac with a minimum turning radius of 60 feet, together with such additional radius over and above said 60 feet as may be necessary for proper drainage and sloping.
13. If adjacent property is undeveloped, the street must be a dead-end temporary right of way and improvements shall be extended to the property line. A temporary circular turnaround shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutting lots whenever the street is continued.
14. Streets shall be identified by name on the preliminary Plat. Proposed streets that are obviously in alignment with others, already existing and named, shall bear the names of existing streets. In no case shall the names for proposed streets duplicate or be so similar to existing names as to cause confusion, irrespective of the suffix, be it street, avenue, boulevard, driveway, place or court. Prior to the issuance of a final plat, the Applicant shall secure approval of the name of any new street from the Emergency 911 Commission.

## **Section 1084: NATURAL CONDITIONS, SHADE TREES AND LANDSCAPING**

1. Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff and conserve the natural cover, screening and soil. The Development Review Board may require building envelopes surrounding the disturbed area of construction and limit cutting of trees or grading outside of such envelope. After application for approval has been made to the Development Review Board, no topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these regulations.
2. The Development Review Board may require landscaping and/or berming, as appropriate, to preserve viewsheds from roads or other sensitive areas. The Development Review Board may require that suitable hardwood shade trees (such as Sugar Maple, Norway Maple, Ash or Oak) be planted along streets where trees do not exist. All trees shall measure at least 10 feet in height and at least two inches in diameter measured at a point six inches above finished grade level. All trees are to be planted within 5-8 feet from the street line.

## **Section 1085: WATER AND WASTEWATER**

Applicants shall demonstrate compliance with the Water Supply and Wastewater Disposal Rules of the State of Vermont, as such may be amended from time to time, pursuant to the schedule established in the Subdivision Review Procedure contained in Article II of these regulations.

## **Section 1086: STORMWATER FACILITIES**

Applicants shall demonstrate compliance with all applicable State of Vermont Storm water Permitting requirements for both construction and development, as such may be amended from time to time and Section 443 of these regulations, pursuant to the schedule established in the Subdivision Review Procedure contained in Sections 1032 and, if applicable, Section 1041 of these regulations.

1. **Drainage** - An adequate surface storm water drainage system for the entire subdivision area shall be provided. The Applicant may be required by the Development Review Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivisions. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. Where it is anticipated that additional run-off incidental to the development of the subdivision will overload an existing downstream drainage facility so that there will be drainage to private property or an increase in the expenditure of public funds, the Development Review Board shall not approve the subdivision until provision has been made for the improvement of said condition. Where a subdivision is traversed by a watercourse or drainage way, there shall be provided a storm water drainage easement of such width as to encompass the 25-year flood area of such watercourse, which easement shall be indicated on the Final Plat.
2. **Erosion and Sediment Control** - The smallest practical area of land should be exposed at any one-time during development. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and or mulching and
3. structural measures may be required by the Development Review Board to protect areas exposed during the development. Sediment basins shall be installed and maintained during development to remove sediment from run-off water and from land undergoing development.
4. **Excavation and Grading** - The entire area of work shall be brought to the required lines and grades by excavation or filling. A minimum of four (4) inches of topsoil shall be provided to cover all finished slopes. All streets shall be graded from property line to property line to approved grade and cross section. The Development Review Board may require the developer to submit evidence of boring and or other soil investigations to determine the depth composition and stability of
5. the sub-grade within the road section. Materials for embankment shall be placed in successive horizontal layers not exceeding six (6) inches in depth. The Development Review Board may require embankments to be planted with stabilizing shrub or ground cover and seeded with a deep root perennial grass to prevent erosion.

## **Section 1087: PUBLIC UTILITIES**

Public utilities shall generally be placed according to the following specifications:

1. Easements shall be at least twenty feet in width and indicated on the Preliminary and Final Plat and preferably located within a right of way for streets or driveways.
2. Where conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights of way, easements shall be provided centered on rear or side lot lines with access to the street.
3. The Development Review Board may require, as it deems appropriate, that easements for pedestrian access to schools, public open space or streets, and a four-foot wide paved walk be installed.
4. The Applicant shall coordinate the subdivision's design with the utility companies and submit a plan prepared with their cooperation showing all line extensions necessary to serve the subdivision. Such plan shall be integrated within the schematic program for distribution of service to the entire area around the subdivision now or in the future. Common rights-of-way shall be utilized whenever possible. Distribution systems should be built underground, except when affordability, technology and/or distance or terrain makes it economically unfeasible. The Applicant shall bear the burden of demonstrating economic hardship.

## ARTICLE XI: DEFINITIONS.

### Section 1100: DEFINITIONS

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural; the word "lot" includes "plot"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; "person" includes individual, partnership, association, corporation, company, or organization; and the word "street" is synonymous with "road."

The Development Review Board shall clarify doubt as to the precise meaning of any word used in these regulations. Definitions specifically referencing the Floodplain portion of these regulations contained in Article IX are specifically denoted with "FP" prior to the title. Definitions specifically referencing the Subdivision portion of these regulations contained in Article X are specifically denoted with "S" prior to the title.

**ABUTTING LAND OWNER:** A person who owns land in fee simple if that land:

Shares a boundary with the tract of land where a proposed or actual development or subdivision is located, including those in other towns and any property owner through whose land a ROW is required for access to any lot in the proposed development; or is adjacent to a tract of land where a proposed or actual development or subdivision is located and the two properties are separated only by a river, stream, or public highway.

**ACCESSORY DWELLING UNIT:** On a residential property, an accessory use or structure is a use or structure located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

The property has sufficient wastewater capacity to satisfy state regulations.

The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

Applicable setback, coverage, and parking requirements specified in the bylaws are met.

**ACCESSORY ON FARM BUSINESS:** "Accessory on-farm business" means activity that is accessory to a farm and comprises one or both of the following:

1. The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located.
2. (II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (2), "farm stay" means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

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

**"Farming"** shall have the same meaning as in 10 V.S.A. § 6001.

**"Qualifying product"** means a product that is wholly:

1. an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;
2. livestock or cultured fish or a product thereof;
3. a product of poultry, bees, an orchard, or fiber crops;
4. a commodity otherwise grown or raised on a farm; or
5. a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

**"RAP rules"** means the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.



**ACCESSORY USE OR BUILDING:** On a non-residential property, an accessory use or structure is a use or structure that is customarily incidental, subordinate and reasonably necessary to the conduct of the principal building or use and located on the same lot. This includes solar and wind energy infrastructure.

**FP: ADMINISTRATOR:** The Federal Emergency Management Administrator.

**AFFORDABLE HOUSING:** Housing that is either (1) purchased by its inhabitants, whose gross annual household income does not exceed 130% of the county median income as defined by the United States Department of Housing and Urban Development and the total annual cost of the housing, including principal, interest, taxes, insurance and fees is not more than 30% of the households gross income; or (2) rented by its inhabitants whose gross annual household income does not exceed 130% of the county median income as defined by the United States Department of Housing and Urban Development and the total annual cost of the housing, including rent, utilities, insurance and fees is not more than 30% of the households gross income.

Affordable units shall be subject to covenants, deed restrictions or other legal instruments that ensure the long-term affordability of such units for a minimum of 15 years or longer.

**AFFORDABLE HOUSING DEVELOPMENT:** A housing development of at least 6 units, of which at least 30% of the units (Rounded up as necessary), are affordable housing units as defined by these Regulations.

**AGRICULTURAL SALES:** Farm-related equipment sales with accessory sales of forestry, lawn and garden equipment and supplies.

**AGRICULTURAL USE OR FARMING:** Land or structure used for raising livestock, growing agricultural or forest products or nursery stock, storing agricultural equipment, or, as an accessory use, selling agricultural products or nursery stock raised on the property, pursuant to the definition of farming contained in 10 V.S.A. §6001(22). **See Also “Farm” and “Farming”.**

**ALTERATION:** Structural change, rearrangement, change of location, or addition to a building, other than repairs or modifications in building equipment.

**APPLICANT:** Any person, firm, corporation, partnership, association, unincorporated organization, trust, or any other commercial or legal entity, including a joint venture of affiliated ownership which owns or controls the tract(s) of land to be developed or subdivided, who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for him/herself or for others or who other files a request before the Zoning Administrator or Development Review Board

**FP: 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.

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

**BASEMENT:** Story partly 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.

**BED AND BREAKFAST HOME:** A single family dwelling unit and accessory structure (Carriage House) in which the resident owner or permanent dwelling occupant provides short-term lodging to paying guests. Guests may be served meals, provided that they are limited to breakfasts or brunches. Commercial restaurant or kitchen facilities are prohibited. Bed and Breakfasts should otherwise conform to the standards for Home based businesses.

**BOARDING OR ROOMING HOUSE:** A single family dwelling unit and accessory structure (Carriage House) in which the resident owner or permanent dwelling occupant provides long or medium-term (Weekly or monthly) lodging to paying guests. Guests may be served meals. Boarding or rooming houses should otherwise conform to the standards for Home based businesses.

**S: BOUNDARY ADJUSTMENT:** Any revision to a plat record or deed legally filed in the Town’s land records which creates no new building lot(s) and which has no impact on roads, rights-of-way or other public facilities; i.e., a case in which the owners of two abutting properties wish to move a common boundary, without the intent to create an additional lot. A boundary adjustment shall not be considered a subdivision under the terms of these Regulations.

**BUILDING:** Structure having a roof supported by column or walls and intended for the shelter or enclosure of persons, animals, or personal property. Includes any carport or covered porch, covered terrace, covered deck, or covered steps.

**BUILDING AREA:** Total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings. Any solar collection device or related apparatus not included as floor area of a building is not included. 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 that is closest to the street line. Where a lot fronts on public waters but not a public road, “mean 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 roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**BUILDING REAR LINE:** Line parallel to the street line transecting that point of the building that is farthest from the street line. Where a lot fronts on public waters but not a public road, “mean 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 that is nearest the side lot line.

**CAMPER:** Any motorized or un-motorized vehicle mounted on wheels and used as sleeping, camping, or living quarters. This includes a camper body mounted on a truck, and excludes mobile homes.

**CAMPGROUND:** Any tract or parcel of land occupied by four or more campers, tents, or tent sites for vacation or recreational purposes.

**CARWASH OR MOTOR VEHICLE SERVICE STATION:** A facility that has commercial facilities for lubricating, washing, painting, repairing, or servicing motor vehicles.

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

**S: CLUSTER DEVELOPMENT:** A development in which building lots may be reduced in size and buildings may be sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. The additional land that remains undeveloped is preserved as open space and recreational-use land. See Planned Unit Development.

**COMMUNITY FACILITY:** Any state or community owned institutions and facilities, public and private schools or other educational institutions certified by the State Department of Education; churches and other places of worship, convents or parish houses; and public and private hospitals.

**COMMERCIAL:** A use or structure carried out or occupied for business purposes. A single-family residence used for a “home Occupation” shall be considered as primarily a single-family residence and shall not require site plan review. A single-family residence and/or accessory structure used for a “Home Based Business” shall be considered a commercial use and shall be subject to either Conditional Use Review or Site Plan Review, depending upon the district in which it is located.

**COMMERCIAL MOTOR VEHICLE REPAIR SHOP:** A place of business for commercial (retail or contracted) repair of motor vehicles. This includes part time “shade tree mechanic” operations where vehicles belonging to people other than the residents of the property are frequently and regularly repaired for cash or barter.

**CONDITIONAL USE:** Use which may be permitted only by approval of the Development Review Board after public notice and public hearing to determine whether the proposed use will conform to general and specific standards as set for the or referred to in this regulation and pursuant to 24 V.S.A. Section 4414.

**DAY CARE OR FAMILY CHILDCARE HOME OR FACILITY:** A family childcare home or facility means a home or facility where the owner or operator is licensed or registered by the state for childcare. A family childcare home serving not more than six children shall be considered to constitute a permitted single-family residential use of property. A family childcare home serving not more than six fulltime children and four part-time children, as defined in subdivision 33 V.S.A. §4902(3)(A), shall be considered a permitted single-family residential use, but shall be subject to site plan approval. A family childcare facility serving more than 6



fulltime and four part-time children shall be subject to the portion of Article II of these regulations governing the uses allowed in each district.

**S: DEFERRAL OF PERMIT:** An arrangement in which the subdivider agrees, by means of the inclusion of a restrictive covenant in the deed for the subdivided lot, that no development requiring the installation of a wastewater disposal system will be undertaken on the lot unless the appropriate permits have been applied for and granted.

**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 a mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

**DRIVEWAY:** A private access road for vehicular travel serving up to three residences and related accessory units.

**DWELLING UNIT:** Building or part thereof used as living quarters for one family. The terms “dwelling,” “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.

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

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

**FARMING:** Farming shall have the same meaning as in 10 V.S.A. § 6001.

**FARM STRUCTURE:** A building, enclosure, or fence for housing livestock, raising horticulture or agronomic plants, or carrying out other practices associated with an agricultural use or farming as defined herein.

**FP: FEMA:** Federal Emergency Management Agency.

**FENCE:** A structure or vegetation used primarily for enclosure or screening.

**FP: FHBM:** Flood Hazard Boundary Map. An official map of a community issued by the Administrator where the boundary of the flood, mudslide, or related erosion areas having special hazards have been designated as Zones A, M, and/or E.

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

**FP: 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.

**FP: 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.

**FLOOR AREA:** Sum of the gross horizontal area of the floors of a building, excluding basement floor areas. All dimensions shall be measured between interior faces of walls.

**FP: 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.

**FRONT YARD SETBACK:** Consists of the depth of the front yard (distance from building front line to street centerline), where a lot fronts on public waters but not a public road, the front yard setback shall consist only of the depth of the front yard (building front line to mean water line).

**GOLF COURSE:** Land maintained or improved to allow the play of golf. Includes courses consisting of any number of holes, driving ranges, putting greens and miniature golf.

**GOVERNMENT FACILITY:** Any building owned used, or controlled exclusively for public purposes by any department or branch of government.

**GROUP HOME OR RESIDENTIAL CARE HOME:** A residential care or group home operated under state licensing or registration, serving not more than 8 persons, who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so permitted if it is located within 1,000 feet of another existing or permitted such home.

**HAZARDOUS MATERIALS:** Any corrosive, flammable, toxic, or carcinogenic material, chemical, or substance that satisfies the criteria of 10 V.S.A. §6602(16)(A).

**HOME OCCUPATIONS:** Accessory use conducted within a minor portion of a dwelling or an accessory building by the residents thereof, which is clearly secondary to the residential uses, is customary in residential areas, and does not adversely impact the character of the area.

**HOME BASED BUSINESS:** Home based businesses constitute businesses operated on the premises of the owner that allow for an expansion of the business beyond the strict confines of a home occupation. Home based businesses may be allowed in designated zoning districts as conditional uses subject to review under Section 501 hereof.

**INTERESTED PERSON:** A person owning or occupying real property in the immediate neighborhood of a parcel of land that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. Please see 24 V.S.A., §4465 for a more complete definition.

**JUNKYARD:** Any place of outdoor storage used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, wrecking, dismantling, or storage, salvaging or sale of machinery, parts of four or more unregistered and/or inspected motor vehicles designed for use on public roads and required to be registered and inspected by the state or such vehicles not in running condition.

**KENNEL:** Any lot or premise on which two or more dogs, at least four months of age, are kept for sale, commercial breeding, grooming or boarding purposes.

**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 402, which may not meet minimum area, width, or depth requirements.

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

**LOT, CORNER:** 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:** Mean horizontal distance from the street line to the rear lot line measured at right angles to the building front 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:** Distance measured across the width of the lot at the public road or, in the absence of a public road, the public waters or an approved ROW.

**LOT LINE:** Property lines bounding a lot.

**LOT LINE, REAR:** The lot line opposite the most distant from the street line. Where a lot fronts on public waters but not a public road, “mean water line” shall replace “street line” in this definition.

**LOT WIDTH:** Width measured at right angles to its lot depth, at the proposed or existing building front line.

**MINI-STORAGE:** A commercial development for the purpose of providing rental spaces for individuals or small businesses to store personal goods and possessions, typically secured by the tenant's own lock and key.

**MOBILE HOME/MODULAR HOME/ PREFABRICATED HOME:** A prefabricated dwelling unit which is designed for long-term and continuous residential occupancy, is designed to be moved on wheels as a whole or in sections, and is ready for occupancy upon arrival at the site except for incidental unpacking, assembly, connections with utilities, and placement on supports or foundation. Mobile/modular/pre-fabricated homes shall be treated in the same manner as comparable, conventional homes. No provision of these regulations shall have the effect of precluding mobile/modular/prefabricated homes, except on the same terms and conditions as conventional housing is excluded.

**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 VEHICLE REPAIR SHOP:** a place of business for commercial (retail or contracted) repair of motor vehicles. This includes part time “shade tree mechanic” operations where vehicles belonging to people other than the residents of the property are frequently and regularly repaired for cash or barter.

**MOTOR VEHICLE SALES FACILITY:** A retail establishment for the display and sale of motor vehicles, including but not limited to cars, trucks, vans, campers, boats, motorcycles, or snowmobiles. May include an enclosed showroom and a parking lot.

**FP NEW CONSTRUCTION:** Structures commenced on or after August fifth, 2013, the effective date of the original flood hazard ordinance.

**NON-CONFORMING STRUCTURE:** Structure not conforming to the Zoning Regulations for the district in which it is located, where such structure conformed to all applicable laws, ordinances and regulations prior to enactment of these regulations, including a structure improperly authorized as a result of error of the Zoning Administrator

**NON-CONFORMING USE:** Use of land or structure that does not comply with all Zoning Regulations for the district in which it is located, where such use conformed to all applicable laws, ordinances and regulations prior to enactment of these regulations, including a parcel improperly authorized as a result of error of the Zoning Administrator

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

**PERMITTED USE:** Use specifically allowed in the district, excluding illegal uses and non-conforming uses.

**PERSONAL SERVICE:** Barber, beauty parlor, shoe repair, Laundromat, photographic studio, and other businesses providing similar personal services, except for medical services.

**PLANNED UNIT DEVELOPMENT (PUD):** 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 4417 of the Act for a more detailed description of PUDs.

**PLAT:** A document of record describing a plot of land.

**PROFESSIONAL OFFICE:** Commercial space housing professional service providers in the Highway Commercial District such as architects, accountants, dentists, physicians, veterinarians, lawyers, engineers, psychologists, and/or other similar occupations.

**PRIMITIVE CAMP:** A dwelling that has seasonal use and has no supply of running water and no wastewater disposal system, and is a maximum of 500 square feet, one story building. A camp must have an acceptable documented method of disposing of human wastes, which adheres to State standards, either on or off the property as a prerequisite to its use for any length of time.

**PUBLIC WATER:** Any river, stream, or body of water, excepting those waters in private ponds and private preserves as set forth in 10 V.S.A. §§ 5204, 5205, 5206, and 5210, which is located either partially or entirely within the State of Vermont or forms a portion of its boundary and which is capable of being used by the public as a means of passage or transportation.

**QUALIFYING PRODUCT:** A “Qualifying product” for the purpose of Accessory on Farm businesses means a product that is wholly:

1. an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;
2. livestock or cultured fish or a product thereof;
3. a product of poultry, bees, an orchard, or fiber crops;
4. a commodity otherwise grown or raised on a farm; or
5. a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

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

**REQUIRED AGRICULTURAL PRACTICE RULES: "RAP rules"** means the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2. **See Accessory on farm business.**

**RECYCLING CENTER:** Any land or structure, whether in connection with a business or not, used for the collection, temporary storage, processing, or resale—with the intent to recycle—of waste, paper, glass, scrap metal, plastic or Styrofoam materials, cardboard, textiles, rubber products, or any other non-hazardous materials which can be recycled. Materials stored at a recycling center must be removed within six months of the date of arrival. In addition, a recycling center must be certified by the Solid Waste Management Division of the Agency of Natural Resources to receive the recyclable materials. Bottle Redemption Facilities, Junk Yards, and Motor Vehicle Graveyards are not included in this definition.

**RECREATION, INDOOR:** Bowling alley, theater, pool hall, arcade, skating rink, gymnasium, fitness centers or other similar places of indoor recreation.

**RECREATION, LOW-IMPACT OUTDOOR:** Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving ranges, archery ranges, hiking and riding trails, cross-county skiing facilities, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas, and boat launching sites.

**RECYCLE:** To utilize solid waste materials for the production of raw materials or finished products, but shall not include the processing of solid waste to produce energy or fuel products.

**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, two-family dwelling or multiple-family dwelling.

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

**S: RESUBDIVISION:** A change of a recorded subdivision plat record or deed if such change affects any road layout on such plat record, or area reserved thereon for public use, or any change of a lot line (other than a boundary adjustment (*q.v.*)), or any such change that affects any map or plan which has been legally recorded.

**RETAIL STORE:** Any enclosed business concerned primarily with the sale of produce, products, goods, equipment or commodities; and shall exclude any drive-in facility, free-standing retail stand, gasoline or motor vehicle service station, motor vehicle sales facility, restaurant or junk yard.

**ROAD:** Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicular traffic whether public or private, exclusive of a driveway serving not more than three, single or three, two-family residential uses or lots.

**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.

**SERVICE AREA:** A designated space used for waste storage or pickup, utility areas, or for the delivery of goods and services to any building or land use.

**SHOOTING RANGE:** Any land or structure operated other than as an accessory to a permitted dwelling used to provide a controlled, safe environment for the purpose of shooting firearms at stationary or moving targets.

**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.

**S: SKETCH PLAN:** a sketch of the proposed subdivision, in a form approved by the Development Review Board, showing the location of the subdivision and a description of the proposed development.

**SLOPE:** The change in vertical elevation per 100 feet of horizontal distance.

**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 that use natural or architectural components to collect and store solar energy without using external mechanical power, are included in this definition.

**STABLE, PRIVATE:** A facility where less than four horses are permanently boarded for private use, not for remuneration, hire, or sale.

**FP: START OF CONSTRUCTION:** The date the permit was issued if work starts within 180 days from that date. Otherwise, the date shall be that on which the structure is placed on the site.

**STREET:** Public way for vehicular traffic that affords the principal means of access to abutting properties; includes Class 1,2,3,4 Town highways. Waltham regulations substitute the term road.

**STREET LINE:** Right-of-way line of a street 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 twenty-five feet from the centerline of the street; except on RT 17 where the street line shall be considered to be 33 feet from the centerline and RT 7 where the Agency of Transportation shall determine widths.

**STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground, or attachment or something located on the ground.

**S: SUBDIVISION:** The division by recorded deed of a parcel of land with or without roads into two or more lots, plots or other legal divisions of land for future transfer of ownership, building development or sale. Subdivision includes re-subdivision (*q.v.*).

**S: SUBDIVISION, MAJOR:** Any residential subdivision containing four or more lots (3 new lots), or requiring any new road, or extension of municipal services; or any commercial industrial or commercial recreational project, multi-family housing project that meets the definition of a subdivision; parcels subdivided within the previous five years or after six years, any further subdivision would cause any driveway shared by 4 or more lots to be upgraded to the road standards or any subdivision containing issues which the Development Review Board considers too critical to be a minor subdivision.

**S: SUBDIVISION, MINOR:** Any residential subdivision containing Three (3) or less lots (two new lots), and otherwise not qualifying as a major subdivision.

**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 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.

**TOWN HIGHWAY, CLASS 1:** Town highways designated by the Highway Board which are parts of a state highway route and which carry a state highway route number (RT 17, RT 7).

**TOWN HIGHWAY, CLASS 2:** Town highway designated by the legislated body of the municipality with the approval of the Highway Board for securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amounts of traffic. (Maple St., Green St.).

**TOWN HIGHWAY, CLASS 3:** All Town roads or highways other than Class 1, Class 2 or Class 4 highways, as designated by the Selectboard (Route 66).

**TOWN HIGHWAY, CLASS 4:** All Town roads or highways, including trails and pent roads, other than Class 1, Class 2 or Class 3 highways, as designated by the Selectboard.

**VARIANCE:** A departure from the zoning bylaws THAT is granted or denied by the Development Review Board. 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.

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

**WAREHOUSE:** A wholesale commercial operation for storing goods or merchandise, the scale of which is beyond that of a home-based business and appropriate only for a commercial district.

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

**YARD, FRONT:** Yard between the street line and the building front line.

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

**YARD, REAR:** Yard between a rear lot line and a building rear.