

Town of Weathersfield

Zoning Bylaws



Adopted by the voters

March 5, 1974



Includes all subsequent amendments through

October 21, 2013

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Article 1: Authority and Purpose

1.1 Authority

In accordance with the Vermont Municipal and Regional Planning and Development Act (hereinafter referred to as The Act) 24 V.S.A., Chapter 117, Subchapter 6, § 4401, there are hereby established Zoning Bylaws for the Town of Weathersfield, which are set forth in the following text and maps.

These Bylaws shall be known as the “Town of Weathersfield Zoning Bylaws” and shall supersede the Town of Weathersfield Zoning Bylaws as amended through March 5, 2002.

In Accordance with these Bylaws, no development shall take place until a zoning permit has been issued and has become effective; and no property transfer or change of land use shall occur which creates a new nonconforming use or a new small lot. This applies to all development proposed by all persons, including the Town government of Weathersfield, except when specifically exempted by state law.

Note: For clarification of unfamiliar or unusual terms, see the following sections of these Bylaws:

Section 6	General Provisions
Section 7	Special Provisions
Section 8	Definitions

1.2 Purpose

These Bylaws are intended to guide the development and growth of the Town of Weathersfield along the lines designated in the adopted Town Plan. The many factors which these Bylaws must take into account may be found in the Town Plan and Section 4302 of Chapter 117 of Title 24, V.S.A. However, a few factors are the very foundation of these Bylaws and are therefore emphasized by being listed here:

- It is neither desirable nor possible to stop growth.
- Without the aid of Zoning Bylaws, the Town of Weathersfield could be forced by outside pressure into a growth rate much larger than it can accommodate.
- The rights of a property owner must not be ignored, and the rights of all property owners and residents must be so balanced as to avoid placing an unfair burden on anyone.
- The cost of housing should not be increased by needless regulations.
- Development of rural land must be guided by the above factors, plus the suitability of soils and terrain, as well as the desire of the people of Weathersfield to retain a rural, rather than urban or suburban atmosphere.

1.3 Application of Regulations

A zoning permit issued by the Administrative Officer shall be required for any land development as defined in 24 V.S.A., Section 4303, except for development which is specifically exempted from these regulations under Section 4413. Such permit may be issued only in conformance with these regulations and other Town ordinances, as provided in 24 V.S.A., Section 4449. Any use not permitted by these regulations shall be deemed prohibited.

1.4 Interpretation

The adoption of these regulations shall not repeal any permit previously issued. Where these regulations impose a greater restraint or restriction than is provided under any other statute, bylaw, ordinance, rule or regulation, then these regulations shall govern. Except as otherwise provided by this section and by 10 V.S.A. §1976, if any bylaw is enacted with respect to any land development that is subject to regulation under state statutes, the more stringent or restrictive regulation applicable shall apply.

1.5 Adoption and Amendments; Effective Date

In accordance with The Act [§§ 4441 and 4442], these Bylaws shall take effect immediately after adoption and may be amended according to the requirements and procedures established in The Act. The Zoning Bylaws heretofore in effect (Town of Weathersfield Zoning Bylaws, 2002) shall be deemed repealed upon the effective date of these Bylaws. Any mandatory changes enacted by the State shall automatically become part of these Bylaws.

1.6 Severability

The invalidity of any provision of these Bylaws shall not invalidate any other part.

Article 2: Zoning Districts and District Standards

2.1 Introduction and Table of Districts and Uses

The tables on pages 7 through 20 are a major part of these Bylaws and illustrate the following information:

- a) The seven types of zoning districts located in the Town of Weathersfield.
- b) For district locations, refer to the official Zoning Districts Map and aerial photographs located at the Town Office.
- c) Brief description and purpose of each district.
- d) Basic minimum requirements in each district.
- e) All uses permitted within the Town of Weathersfield.
- f) Which uses may be permitted in each district type under certain conditions and with what additional requirements.

In addition, all uses must comply with any applicable General Provisions and Special Provisions as listed in Sections 6 and 7 of this document.

After holding a public hearing, the Zoning Board of Adjustment may deem other uses similar in nature to those listed in the Definitions section.

Definitions of words and terms used in these Bylaws appear in Section 8 after the section regarding Special Provisions.

2.2 Zoning Map and Interpretation

The locations and boundaries of zoning districts are established as shown on the Official Zoning Districts Map located in the Town Office.

The Official Zoning Districts Map is hereby made a part of these regulations and a part of all future amendments to these regulations.

The Conservation District boundaries shown on the map are necessarily approximate. Actual conditions of the land shall prevail over any markings on the map.

If uncertainty exists with respect to the boundary of any zoning district on the Official Zoning

Districts Map, the Zoning Board of Adjustment shall have the authority to determine the exact location of such boundary, after consultation with the Planning Commission.

2.3 Lot in Two Districts

Where a zoning district boundary line divides a lot of record in single ownership at the time of the adoption of the district line, permitted uses for each of the divided parts shall be as required within the district in which the land is located with the following exception:

- a) **Exception:** When the result of the adopted district boundary line produces an area of land within each district insufficient to meet the requirements for that district, the Board of Adjustment may grant a conditional use permit to extend the regulations for the less restricted part of such a lot into the more restricted part.

2.4 Expansion of Minimum Lot Size

- a) For a Conditional Use: The Board of Adjustment may expand the lot size requirements for resorts, bed and breakfasts, hotels, other paying guest or multi-family complexes by one acre per guest room or per family above the minimum lot size.
- b) For a Permitted Use: When the physical characteristics of the lot and/or the nature of the proposed use are such that larger lots are advisable, all parties are encouraged to consider lot sizes larger than the minimum.

2.5 Table of Districts and Uses

For the purpose of these Bylaws, the following Zoning Districts are hereby established for the Town of Weathersfield:

<u>District Type</u>	<u>District Designations</u>
Village	(V)
Hamlet	(H)
Rural Residential	(RR 1)
Rural Residential Reserve	(RRR 3-5)
Conservation	(C)
Highway Commercial	(HC)
Industrial	(I)

Description and Purpose of Each District

Village (V):

- Established dense residential centers for sociability, convenient shopping and other public and private community services compatible with a rural village setting;
- intensive land use with some multi-family housing;
- efficient location for a limited number of compatible commercial activities.
- The Village District can absorb growth without greatly increasing demand for roads and school bus services.
- Central water and possibly sewer services may need to be provided to accommodate growth.

Hamlet (H):

- Sparse residential centers for limited sociability with very limited shopping and community services, compatible with a rural setting;

- Reasonable location for neighborhood general stores.
- The Hamlet District is capable of absorbing limited growth without increasing demand for roads and school bus route, though school bus capacity would increase.

Rural Residential (RR 1):

- Residential growth areas surrounding villages and hamlets;
- Somewhat convenient to their amenities;
- Intended to always retain some large lots to add variety and rural scenery.
- Growth in the Rural Residential District will increase demand for roads and school bus service slowly and at a small rate per family.

Rural Residential Reserve (RRR 3-5):

- Rural areas that give Weathersfield its valued rural atmosphere;
- A mix of open and wooded lands, agriculture, and residences, accessible and remote.
- Residential growth in the Rural Residential Reserve District will increase demand for utilities and services moderately to severely dependent upon the intensity and remoteness of the growth location.

Conservation (C10):

- Areas in which sparse development is wise for one or more of the following reasons:
- Remote from roads or utility services;
- Location of scarce mineral resources;
- Prime agricultural or forested land;
- Significant or irreplaceable natural, historic, recreational or scenic resources;
- Slope elevations exceeding 25%;
- Land over 1,500 feet in elevation;
- Severe soil limitations;
- Risk of flooding or floodways need.

Highway Commercial (HC):

- Areas adjacent to highways or highway intersections with sufficient traffic to support the efficient provision of goods and services to the public.
- Serves local residents and transients;
- Provides some local employment and
- Helps to broaden the tax base.
- Access drives and curb cuts must be carefully planned to avoid traffic nuisances and dangers.

Industrial (I):

- Areas suitable in terrain and proximity to transportation facilities to be desirable by industry and those commercial activities that do not depend on highway traffic for customers.
- Provides employment for local residents and
- Broadens the Town tax base.
- Currently located in areas partially so developed and considered to be appropriate for such use.

Use Requirements by District Type

The following information describes how uses are permitted and the area, land and structural requirements for each District.

2.5.1 Village (v) – Ascutney

Purpose: Established dense residential centers for sociability, convenient shopping and other public and private community services compatible with a ~~rural-small~~ village setting; intensive land use with some multi-family housing; efficient location for ~~a limited number of~~ compatible commercial activities. The Village District can absorb growth without greatly increasing demand for roads and school bus services. ~~Central~~ A public water system serves the Village, but public and possibly sewer services may need to be provided to accommodate growth.

USES THAT DO NOT REQUIRE A ZONING PERMIT: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (~~see Sect. 6.10.8~~)
- Baby-sitting services (~~see Sect. 7.13.1(a)~~)
- Home-based occupation
- Minor structures (see definition)
- ~~Temporary signs~~

PERMITTED USES: The following uses are permitted following the issuance of a Zoning Permit by the Administrative Officer:

Permitted Principal Uses:

- Cemetery
- ~~Group homes~~
- Home-based business, level 1
- Single family dwelling
- ~~Small enterprise^{1,2,3} (see definitions; in keeping with Village residential/commercial mix)~~
- Two family dwelling (~~altered from pre-existing single family dwelling, if no enlargement of structure; not new construction~~)

Permitted Accessory Uses:

- Accessory dwelling unit (~~see Sect. 6.9.1~~)
- Accessory use or structure
- Adult day care service (~~see Sect. 7.13~~)
- Athletic courts
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home (~~see Sect. 7.13~~)
- ~~Home occupations~~
- Ponds (~~see Sect. 6.10.4~~)
- Seasonal roadside stand (~~see Sect. 7.11~~)
- Signs, permanent
- Swimming pool (in ground or aboveground)

CONDITIONAL USES: The following uses are permitted upon granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Adult day care facility^{1,3} (~~see Sect. 7.13~~)
- Arts and crafts, studio and gallery
- Bank
- Commercial school (i.e. music, dance, driving, beauty, culture)
- Family child care facility^{1,3} (~~see Sect. 7.13~~)
- Health clinic
- Home-based-business, level 2
- Indoor or outdoor recreation facility^{1,3} (see definitions)
- Inn/small hotel ^{1,3} (see definitions)
- Medical facility^{1,2,3} (see definitions)
- Multi-family dwelling^{1,2,3} (three to six units)
- ~~Planned Residential Development (PRD)^{1,3}~~
- ~~Single family or multi-family (three to six units) (see Sect. 7.3)~~
- Personal service (i.e. tailor, barber/beauty shop, etc.)
- Professional office
- Public water, sewage treatment plant ^{1,2,3}
- Residential care home
- Restaurant
- School^{1,2}
- Semi-public ^{1, 2, 3} (Primarily nonprofit: church, museum, library, private club, YMCA, YWCA, mortuary, etc.
- Small retail store
- Theater
- ~~Two family dwelling (new construction)~~
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District.)

Conditional Accessory Uses:

- Docks
- ~~Home Industry~~
- Wireless Communication Facilities ^{2,3}

USES NOT PERMITTED: The following uses are not permitted within this District:

- Campground, children's camp or resort
- Contractor's storage (of materials, machinery, heavy equip.)
- Gasoline/service station
- Highway Commercial
- Industrial
- Junkyard, landfill, recycling facility (privately owned)

- Extraction of earth resources
- Mobile home park
- Non-highway Commercial
- Self-Storage Facility (effective July 9, 2012)
- Commercial strip development
- Drive-through restaurants

AREA, LAND & STRUCTURAL REQUIREMENTS:

1. ~~Only one principal use is allowed per parcel of land.~~
2. ~~Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.~~
3. ~~Establishment of multiple principal uses on a single parcel of land requires a PUD permit.~~
4. Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations.

Lot area minimum: 1 acre

Lot frontage and setbacks:

Frontage	80 feet
Front Setback	40 <u>20</u> feet
Rear Setback	20 feet
Side Setback	20 <u>10</u> feet

Building Height:

Maximum Building Height: 35 feet (*Amended 6/11/2012*)

- 1 Site Plan Review required
- 2 General/Special Provisions apply
- 3 Certificate of Occupancy required

2.5.2 Village (V) - Perkinsville

Purpose: Established dense residential centers for sociability, convenient shopping and other public and private community services compatible with a ~~rural~~ small village setting; intensive land use with some multi-family housing; efficient location for a limited number of compatible commercial activities. ~~The Village District can absorb growth without greatly increasing demand for roads and school bus services~~ Revitalization of the Village Center is a primary goal of the Town Plan. Solutions for a current lack of public ~~Central~~ water system and ~~possibly~~ sewer services may need to be provided to accommodate growth.

USES THAT DO NOT REQUIRE A ZONING PERMIT: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (~~see Sect. 6.10.8~~)
- Baby-sitting services (~~see Sect. 7.13.1(a)~~)
- Home-based occupation
- Minor structures (see definition)
- Temporary signs

PERMITTED USES: The following uses are permitted following the issuance of a Zoning Permit by the Administrative Officer:

Permitted Principal Uses:

- Cemetery
- ~~Group homes~~
- Home-based business, level 1
- Single family dwelling
- Small enterprise^{1,2,3} (see definitions; in keeping with Village residential/commercial mix)
- Two family dwelling ~~(altered from pre-existing single family dwelling, if no enlargement of structure; not new construction)~~

Permitted Accessory Uses:

- Accessory dwelling unit ~~(see Sect. 6.9.1)~~
- Accessory use or structure
- Adult day care service ~~(see Sect. 7.13)~~
- Athletic courts
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home ~~(see Sect. 7.13)~~
- ~~Home occupations~~
- ~~Ponds (see Sect. 6.10.4)~~
- Seasonal roadside stand ~~(see Sect. 7.11)~~
- Signs, permanent
- Swimming pool (in ground or aboveground)

CONDITIONAL USES: The following uses are permitted upon granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Adult day care facility^{1,3} ~~(see Sect. 7.13)~~
- Arts and crafts, studio and gallery
- Bank
- Commercial school (i.e. music, dance, driving, beauty, culture)
- Family child care facility^{1,3} ~~(see Sect. 7.13)~~
- Health clinic
- Home-based business, level 2
- Indoor or outdoor recreation facility^{1,3} (see definitions)
- Inn/small hotel ^{1,3} (see definitions)
- Medical facility^{1,2,3} (see definitions)
- Multi-family dwelling^{1,2,3} (three to six units)
- ~~Planned Residential Development (PRD) ^{4,5}:~~
- ~~Single family or multi-family (three to six units) (see Sect. 7.3)~~
- Personal service (i.e. tailor, barber/beauty shop, etc.)
- Professional office

- Public water, sewage treatment plant ^{1,2,3}
- Residential care home
- School^{1,2,}
- Semi-public ^{1, 2, 3} (Primarily nonprofit: church, museum, library, private club, YMCA, YWCA, mortuary, etc.
- ~~Two family dwelling (new construction)~~
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District.)

Conditional Accessory Uses:

- Docks
- ~~Home Industry~~
- Wireless Communication Facilities ^{2,3}

USES NOT PERMITTED: The following uses are not permitted within this District:

- Campground, children's camp or resort
- Contractor's storage (of materials, machinery, heavy equip.)
- Gasoline/service station
- Highway Commercial
- Industrial
- Junkyard, landfill, recycling facility (privately owned)
- Extraction of earth resources
- Mobile home park
- Non-highway Commercial
- ~~Self-Storage Facility (effective July 9, 2012)~~
- Commercial strip development
- Drive-through restaurants

AREA, LAND & STRUCTURAL REQUIREMENTS:

1. ~~Only one principal use is allowed per parcel of land.~~
2. ~~Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.~~
3. ~~Establishment of multiple principal uses on a single parcel of land requires a PUD permit.~~
4. Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations.

Lot area minimum: Dimensional Standards

	<u>Perkinsville Center</u>	<u>Greater Perkinsville</u>
<u>Lot area minimum</u>	<u>0.6 acre</u>	<u>1 acre</u>
<u>Minimum lot frontage</u>	<u>80 feet</u>	<u>80 feet</u>
<u>Minimum front setback</u>	<u>15 feet</u>	<u>20 feet</u>

<u>Minimum rear setback</u>	<u>20 feet</u>	<u>20 feet</u>
<u>Minimum side setback</u>	<u>10 feet</u>	<u>10 feet</u>

~~1-acre~~

Lot frontage and setbacks:

~~Frontage — 80 feet~~

~~Front Setback — 40 feet~~

~~Rear Setback — 20 feet~~

~~Side Setback — 20 feet~~

Building Height:

Maximum Building Height: 35 feet (*Amended 6/11/2012*)

¹ Site Plan Review required

² General/Special Provisions apply

³ Certificate of Occupancy required

2.5.3 Hamlet (H)

Purpose: Sparse residential centers for limited sociability with very limited shopping and community services, compatible with a rural setting; reasonable location for neighborhood general stores. The Hamlet District is capable of absorbing limited growth without increasing demands for roads and school bus routes, though school bus capacity would increase.

Uses that do not require a Zoning Permit: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (~~see Sect. 6.10.8~~)
- Baby-sitting service (~~see Sect. 7.13~~)
- Home-based occupation
- Minor structures (see definitions)
- Temporary signs

Permitted Uses: The following uses are permitted following the issuance of a Zoning Permit by the Administrative Officer:

Permitted Principal Uses:

- Cemetery
- ~~Group home~~
- Home-based business, level 1
- Single family dwelling
- ~~Small enterprise ^{1,2,3} (see definitions; of a neighborhood trade character; may include one apartment)~~
- Two family dwelling (~~altered from pre-existing single family dwelling, if no enlargement of structure; not new construction.~~)

Permitted Accessory Uses:

- Accessory dwelling unit (~~see Sect. 6.9.1~~)

- Accessory use or structure
- Adult day care service (~~see Sect. 7.13~~)
- Athletic courts
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home (~~see Sect. 7.13~~)
- ~~Home occupations~~
- Ponds (~~see Sect. 6.10.4~~)
- Seasonal roadside stand (~~see Sect. 7.11~~)
- Signs, permanent
- Swimming pool (in ground or aboveground)

Conditional Uses: The following uses are permitted upon the granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Adult day care facility 1,3 (~~see Sect. 7.13~~)
- Family child care facility^{1,3} (~~see Sect. 7.13~~)
- Home-based business, level 2
- Indoor or outdoor recreation facility 1,2,3 (see definitions)
- Inn/small hotel 1,3 (see definitions)
- Medical facility 1,2,3 (see definitions)
- Public water, sewage treatment plant 1,2,3
- School 1,2,3 (see definitions)
- Semi-public 1, 3 (Primarily nonprofit: church, museum, library, private club, YMCA, YWCA, mortuary, etc.)
- ~~Single family PRD 1, 3 (see Sect. 7.3)~~
- ~~Two family dwelling (new construction)~~
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District.

Conditional Accessory Uses:

- Docks
- ~~Home Industry~~
- Wireless Communication Facilities 2,3

Uses Not Permitted: The following uses are not permitted within this District:

- Campground, children's camp or resort
- Contractor's storage (materials, machinery, heavy equipment)
- Gasoline/service station
- Highway Commercial
- Industrial

- Junkyard, landfill, recycling facility (privately owned)
- Extraction of earth resources
- Mobile home park
- Multi-family dwelling ~~or PRD~~
- Non-highway Commercial
- Self-Storage Facility (*effective July 9, 2012*)

Area, Land, & Structural Requirements:

1. Only one principal use is allowed per parcel of land.
2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.

Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations.

Lot Area Minimum: ~~Basic Minimum:~~ 1 acre

~~Single family dwelling: 1 acre;~~

~~Two family dwelling: 1 acre (1 ½ acre if no public water or if altered single family dwelling);~~

~~All other principal uses: 1 acre.~~

Lot Frontage and Setbacks:

Frontage ~~150~~ 120 feet

Front Setback ~~40~~ 20 feet

Rear Setback 25 feet

Side Setback ~~25~~ 10 feet

Building Height:

Maximum building height: 35 feet (*Amended 6/11/2012*)

- 1 Site Plan Review required
- 2 General/Special Provisions apply
- 3 Certificate of Occupancy required

2.5.4 Rural Residential (RR-1)

Purpose: Residential growth areas surrounding villages and hamlets; somewhat convenient to their amenities; intended to always retain some large lots to add variety and rural scenery. Growth in the Rural Residential District will increase demand for roads and school bus service slowly and at a small rate per family.

Uses that do not require a Zoning Permit: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (~~see Sect. 6.10.8~~)
- Baby-sitting service (~~see Sect. 7.13~~)
- Home-based occupation
- Minor structures (see definitions)
- Temporary signs

Permitted Uses: The following uses are permitted following the issuance of a Zoning Permit by the Administrative Officer:

Permitted Principal Uses:

- Cemetery
- ~~Group home~~
- Home-based business, level 1
- Single family dwelling
- Two family dwelling ~~(altered from pre-existing single family dwelling, if no enlargement of structure; no new construction)~~

Permitted Accessory Uses:

- Accessory dwelling unit ~~(see Sect. 6.9.1)~~
- Accessory use or structure
- Adult day care service ~~(see Sect. 7.13)~~
- Athletic courts
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home ~~(see Sect. 7.13)~~
- ~~Home occupations~~
- ~~Ponds (see Sect. 6.10.4)~~
- Seasonal roadside stand ~~(see Sect. 7.11)~~
- Signs, permanent
- Swimming pool (in ground or aboveground)

Conditional Uses: The following uses are permitted upon the granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Adult day care facility 1,3 ~~(see Sect. 7.13)~~
- Airport uses (as allowed only under Section)
- Campground, resort, children's camp 1,3
- Church (see Semi-Public)
- Family child care facility 1,3 ~~(see Sect. 7.13)~~
- Home-based business, level 2
- Indoor or outdoor recreation facility 1,2,3 (see definitions)
- Inn/small hotel 1,3 (see definitions)
- Medical facility 1,2,3 (see definitions)
- Extraction of earth resources 1,2,3
- Mobile Home Park ~~(see Sect. 7.5)~~
- Public water, sewage treatment plant 1,2,3
- School 1,2,3 (see definitions)

- Semi-public^{1,2,3} (Primarily nonprofit: church, museum, library, private club, YMCA, YWCA, mortuary, etc.)
- ~~Single family PRD 1,2,3~~
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District)

Conditional Accessory Uses:

- Docks
- ~~Home Industry~~
- Wireless Communication Facilities ^{2,3}

Uses Not Permitted: The following uses are not permitted within this District:

- Contractor's storage (of materials, machinery, heavy equip.)
- Gasoline/service station
- Highway Commercial Industrial
- Junkyard, landfill, recycling facility (privately owned)
- Multi-family dwelling ~~or PRD~~
- ~~Two family dwelling (new construction)~~
- Non-highway Commercial
- Small enterprise
- Self-Storage Facility (*effective July 9, 2012*)

Area, Land, & Structural Requirements:

1. Only one principal use is allowed per parcel of land.
2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.

Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations; the burden of proof of soil suitability and terrain is on the applicant. Standards for soil suitability are available from the Soil Conservation Service.

Lot Area Minimum: 1 acre

Lot Frontage and Setbacks:

Frontage	150 <u>120</u> feet
Front Setback	40 feet
Rear Setback	25 feet
Side Setback	25 <u>15</u> feet

Building Heights:

Maximum Building Height: 35 feet (*Amended 6/11/2012*)

¹ Site Plan Review required

² General/Special Provisions apply

³ Certificate of Occupancy required

2.5.5 Rural Residential Reserve (RRR 3-5)

Purpose: Rural areas that give Weathersfield its valued rural atmosphere; a mix of open and wooded lands, agriculture, and residences, accessible and remote. Residential growth in the Rural Residential Reserve District will increase demand for utilities and services moderately to severely dependent upon the intensity and remoteness of the growth location.

Uses that do not require a Zoning Permit: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (~~see Sect. 6.10.8~~)
- Baby-sitting service (~~see Sect. 7.13~~)
- Home-based occupation
- Minor structures (see definitions)
- Temporary signs

Permitted Uses: The following uses are permitted following the issuance of a Zoning Permit by the Administrative Officer:

Permitted Principal Uses:

- Cemetery
- ~~Group home~~
- Home-based business, level 1
- Single family dwelling
- Two family dwelling (~~altered from pre-existing single family dwelling, if no enlargement of structure; no new construction~~)

Permitted Accessory Uses:

- Accessory dwelling unit (~~see Sect. 6.9.1~~)
- Accessory use or structure
- Adult day care service (~~see Sect. 7.13~~)
- Athletic courts
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home (~~see Sect. 7.13~~)
- ~~Home occupations~~
- Ponds (~~see Sect. 6.10.4~~)
- Seasonal roadside stand (~~see Sect. 7.11~~)
- Signs, permanent
- Swimming pool (in ground or aboveground)

Conditional Uses: The following uses are permitted upon the granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Adult day care facility 1,3 (~~see Sect. 7.13~~)
- Campground, resort, children's camp 1,3
- Church (see Semi-Public)

- Contractor's storage ^{1,3} (of materials, machinery heavy equipment)
- Family child care facility ^{1,3} ~~(see Sect. 7.13)~~
- Home-based business, level 2
- Indoor or outdoor recreation facility ^{1,2,3} (see definitions)
- Inn/small hotel ^{1,3} (see definitions)
- Medical facility ^{1,2,3} (see definitions)
- Extraction of earth resources ^{1,2,3}
- Mobile home park ~~(see Sect. 7.5)~~
- Public water, sewage treatment plant ^{1,2,3}
- School ^{1,2,3} (see definitions)
- Semi-public ^{1,2,3} (Primarily nonprofit: church, museum, library, private club, YMCA, YWCA, mortuary, etc.)
- ~~Single family PRD ^{1,2,3}~~
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District)

Conditional Accessory Uses:

- Dock
- ~~Home industry~~
- Wireless Communication Facilities ^{2,3}

Uses Not Permitted: The following uses are not permitted within this District:

- Gasoline/service station
- Highway Commercial
- Industrial
- Junkyard, landfill, recycling facility (privately owned)
- Multi-family dwelling ~~or PRD~~
- ~~Two family dwelling (new construction)~~
- Non-highway Commercial
- Small enterprise
- Self-Storage Facility (*effective July 9, 2012*)

Area, Land, & Structural Requirements:

1. Only one principal use is allowed per parcel of land.
2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.

Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations; the burden of proof of soil suitability and terrain is on the applicant.

Lot Area Minimum: 3 acres

Lot Frontage and Setbacks:

Frontage	200 <u>175</u> feet
Front Setback	40 feet
Rear Setback	50 feet
Side Setback	50 <u>25</u> feet

Building Heights:

Maximum building height: 35 feet (*Amended 6/11/2012*)

- ¹ Site Plan Review required
- ² General/Special Provisions apply
- ³ Certificate of Occupancy required

2.5.6 Conservation (C-10)

Purpose: Areas in which sparse development is wise for one or more of the following reasons: remote from roads or utility services; location of scarce mineral resources, prime agricultural or forested land, significant or irreplaceable natural, historic, recreational or scenic resources; slope elevations exceeding 25%; land over 1,500 feet in elevation; severe soil limitations; risk of flooding; or flood ways need.

Uses that do not require a Zoning Permit: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (~~see Sect. 6.10.8~~)
- Baby-sitting service (~~see Sect. 7.13~~)
- Home-based occupation
- Minor structures (see definitions)
- Temporary signs

Permitted Uses: The following uses are permitted following the issuance of a Zoning Permit by the Adm. Officer:

Permitted Principal Uses:

- ~~Group home~~
- Home-based business, level 1
- Single family dwelling (must not defeat purpose of the District)
- Two family dwelling (~~altered from pre-existing single family dwelling, if no enlargement of structure; no new construction~~)

Permitted Accessory Uses:

- Accessory dwelling unit (~~see Sect. 6.9.1~~)
- Accessory use or structure
- Adult day care service (~~see Sect. 7.13~~)
- Athletic structures
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home (~~see Sect. 7.13~~)
- ~~Home occupations~~
- Ponds (~~see Sect. 6.10.4~~)

- Seasonal roadside stand (~~see Sect. 7.11~~)
- Signs, permanent
- Swimming pool (in ground or aboveground)

Conditional Uses: The following uses are permitted upon the granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Adult day care facility 1,3 (~~see Sect. 7.13~~)
- Campground, resort, children's camp^{1,3}
- Cemetery
- Church (See Semi-public)
- Contractor's storage 1,3 (materials, machinery, heavy equipment)
- Family child care facility 1,3 (~~see Sect. 7.13~~)
- Home-based business, level 2
- Inn/small hotel 1,3 (see definitions; must not defeat purpose of the District)
- Medical facility 1,2,3 (see definitions)
- Extraction of earth resources 1,2,3 (Site Plan Review)
- Outdoor recreation facility 1,2,3 (see definitions, must not defeat the purpose of the District)
- Public water, sewage treatment plant 1,2,3
- School 1,2,3
- Semi-public 1,2,3
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District)

Conditional Accessory Uses:

- Dock
- ~~Home industry~~
- Wireless Communication Facilities 2,3
- ~~Single family PRD 1,2,3~~

Uses Not Permitted: The following uses are not permitted within this District:

- Gasoline/service station
- Highway Commercial
- Indoor recreational facility
- Industrial
- Junkyard, landfill, recycling facility (privately owned)
- Mobile home park
- ~~Two family dwelling (new construction)~~
- Multi-family dwelling ~~or PRD~~

- Non-highway Commercial
- Small enterprise
- Self-Storage Facility (*effective July 9, 2012*)

Area, Land, & Structural Requirements:

1. Only one principal use is allowed per parcel of land.
2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.

Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations; the burden of proof of soil suitability and terrain is on the applicant.

Lot Area Minimum:

Basic District Requirement: 10 acres (the owner(s) of record prior to January 4, 1994, of a lot containing at least 6 acres and less than 20 acres and which lot, under the prior bylaws was in RRR 3-5 District, shall be permitted to subdivide said lot into 2 lots, provided both lots meet the town subdivision and zoning requirements)

~~Two family dwelling (altered from pre-existing single family dwelling): 2 acres (more may be required to provide a proper sewage disposal system)~~

Lot frontage and setbacks: Applies for all uses unless increased by the Board of Adjustment as a condition to help a conditional use avoid defeating the purpose of the District.

Frontage	200 feet
Front Setback	40 feet
Rear Setback	50 feet
Side Setback	50 feet

Building Height:

Maximum building height: 35 feet (*Amended 6/11/2012*)

- 1 Site Plan Review required
- 2 General/Special Provisions apply
- 3 Certificate of Occupancy required

2.5.7 Highway Commercial (HC)

Purpose: Areas adjacent to highways or highway intersections with sufficient traffic to support the efficient provision of goods and services to the public. Serves local residents and transients, provides some local employment and helps to broaden the Town tax base. Access drives and curb cuts must be carefully planned to avoid traffic nuisances and dangers.

Uses that do not require a Zoning Permit: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (~~see Sect. 6.10.8~~)
- Baby-sitting service (~~see Sect. 7.13~~)
- Home-based occupation
- Minor structures (see definitions)
- Temporary signs

Permitted Uses: The following uses are permitted following the issuance of a Zoning Permit by

the Administrative Officer:

Permitted Principal Uses:

- Highway Commercial 1,2,3
- Home-based business, level 1
- Light industrial 1,3 (see definitions)
- Self-Storage Facility ≤ 10,000 sq ft of gross floor area 1,2,3,4
- ~~Small enterprise 1,2,3~~

Permitted Accessory Uses:

- Accessory use or structure
- Adult day care service (~~see Sect. 7.13~~)
- Athletic courts
- Bed and Breakfast (up to 3 bedrooms for transient boarders/tourists)
- Family child care home (~~see Sect. 7.13~~)
- ~~Home occupations~~
- Ponds (~~see Sect. 6.10.4~~)
- Seasonal roadside stand (~~see Sect. 7.11~~)
- Self-Storage Facility ≤ 10,000 sq ft of gross floor area 1,2,3,4
- Signs, permanent
- Swimming pool (in ground or aboveground)

Conditional Uses: The following uses are permitted upon the granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Adult day care facility 1,3 (~~see Sect. 7.13~~)
- Automotive repair shop
- Church (see Semi-public)
- Contractor's storage 1 (materials, machinery, heavy equip.)
- Family child care facility 1,3 (~~see Sect. 7.13~~)
- Gasoline/service station 1,2,3
- ~~Group home~~
- Home-based business, level 2
- Indoor recreational facility 1,3
- Inn/small hotel 1,3 (see definitions)
- Outdoor recreation facility 1,2,3 (see definitions)
- Public water, sewage treatment plant 1,2,3
- Semi-public 1,2,3 (Primarily nonprofit: church, museum, library, private club, YMCA, YWCA, mortuary, etc.)

- Self-Storage Facility >10,000 sq ft of gross floor area 1,2,3,4
- Single family dwelling
- Small engine repair shop
- Two family dwelling ~~(altered from pre-existing single family dwelling, if no enlargement of structure; no new construction)~~
- Veterinary clinic
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District)

Conditional Accessory Uses:

- Accessory Dwelling Unit (see Sect. 6.9.1)
- Dock
- ~~Home industry~~
- Wireless Communication Facilities 2,3

Uses Not Permitted: The following uses are not permitted within this District:

- Campground, resort, children's camp
- Cemetery
- Industrial
- Junkyard, landfill, recycling facility (privately owned)
- Medical facility (see definitions)
- Mineral extraction
- Mobile home park
- Multi-family dwelling ~~or PRD~~
- ~~Two family dwelling (new construction)~~
- Non-highway Commercial
- School (see definitions)
- ~~Single family PRD~~

Area, Land, & Structural Requirements:

1. Only one principal use is allowed per parcel of land.
2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.

Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations; the burden of proof of soil suitability and terrain is on the applicant.

Lot Area Minimum:

Basic District Requirement: 1 acre

Single Family Dwelling: Must meet "Area, Land and Structural Requirements" of RRR 3-5 Zone.

Two Family Dwelling: Must meet "Area, Land and Structural Requirements" of RRR 3-5 Zone. ~~(altered from pre-existing single family dwelling): 1 acre (1 ½ acres if no public water)~~

Lot Frontage and Setbacks:

Applies for all uses unless increased by the Board of Adjustment as a condition to help a conditional use avoid defeating the purpose of the District.

Frontage	200 feet
Front Setback	40 feet
Rear Setback	25 feet
Side Setback	25 feet

Building Height:

Maximum building height: 35 feet (*Amended 6/11/2012*)

¹ Site Plan Review required

² General/Special Provisions apply

³ Certificate of Occupancy required

⁴ Expires 8/5/2012 as an interim bylaw; effective 7/9/2012 as a permanent bylaw

2.5.8 Industrial (I)

Purpose: Areas suitable in terrain and proximity to transportation facilities to be desirable by industry and those commercial activities that do not depend on highway traffic for customers. Provides employment for local residents and broadens the Town tax base. Currently located in areas partially so developed and considered to be appropriate for such use.

Uses that do not require a Zoning Permit: The following uses are permitted without a Zoning Permit, provided that these uses are in compliance with these Bylaws:

- Agriculture/Forestry (see Sect. 6.10.8)
- Baby-sitting service (see Sect. 7.13)
- Minor structures (see definitions)
- Temporary signs

Permitted Uses: The following uses are permitted following the issuance of a Zoning Permit by the Administrative Officer:

Permitted Principal Uses:

- Public water, sewage treatment plant ^{1,2,3}
- Self-Storage Facility ^{1,2,3,4}
- Small Office space (see definitions)
- ~~Two family dwelling (altered from pre-existing single family dwelling, if no enlargement of structure; no new construction)~~

Permitted Accessory Uses:

- Accessory use or structure
- Adult day care service (see Sect. 7.13)
- Athletic Courts
- Bed and Breakfast (in existing home only; up to 3 bedrooms for transient boarders/tourists)
- Family child care home (see Sect. 7.13)

▪ ~~Home occupations (for existing homes)~~

- Ponds (see Sect. 6.10.4)
- Seasonal roadside stand (see Set. 7.11)
- Self-Storage Facility 1,2,3,4
- Signs, permanent

Conditional Uses:

The following uses are permitted upon the granting of Conditional Use Approval by the Board of Adjustment:

Conditional Principal Uses:

- Contractor's storage ¹ (materials, machinery, heavy equip)
- Extraction of earth resources 1,2,3
- Family day care facility ^{1,3} (see Sect. 7.13)
- Highway Commercial

▪ ~~Home Industry~~

- Junkyard, landfill, recycling facility (privately owned)^{1,2,3} (see Sect. 7.15)
- Industrial 1,2,3 (see definitions)
- Non-highway Commercial 1,2,3 (see definitions)
- Outdoor recreation facility (only as facilities for use by employees during lunch, etc. on same basis as primary industrial commercial facility)
- Other uses (as determined after public hearing, by the Board of Adjustment, to be of a similar type and character as those listed above and meeting the purposes of this District)

Conditional Accessory Uses:

- Wireless Communication Facilities ^{2,3}

Uses Not Permitted: The following uses are not permitted within this District:

- Adult day care facility
- Campground, resort, children's camp
- Cemetery
- Gasoline/service station
- Indoor recreational facility
- Inn/small hotel
- Medical facility (see definitions)
- Mobile home park
- ~~Multi-family dwelling or PRD~~
- Residential PUD
- School (see definitions)
- Semi-public
- Single family dwelling
- Single family ~~PRD or~~

- Two family dwelling ~~(new construction)~~

Area, Land, & Structural Requirements:

1. Only one principal use is allowed per parcel of land.
2. Each principal use requires at least the minimum lot area and minimum required frontage specified for the district in which it is located.
3. Establishment of multiple principal uses on a single parcel of land requires a PUD permit.

Soil or terrain conditions may require larger lot sizes to satisfy Town or State public health regulations; the burden of proof of soil suitability and terrain is on the applicant.

Lot Area Minimum:

Basic District requirement: ~~1~~ 2 acres

~~Two family dwelling (altered from pre-existing single family dwelling): 1 acre (1 ½ acres if no public water)~~

Lot Frontage and Setbacks:

Applies for all uses unless increased by the Board of Adjustment as a condition to help a conditional use avoid defeating the purpose of the District.

Frontage	200 feet
Front Setback	40 feet
Rear Setback	25 feet
Side Setback	25 feet

Building Height:

Maximum building height: 35 feet with the following exception: In this District, proposed structures exceeding 35 feet may be allowed with a conditional use permit.

Unless increased by the Planning Commission during Site Plan Review, a minimum of 50' buffer with natural screening is required between industrial and residential zones. *(Amended 6/11/2012)*

1 Site Plan Review required

2 General/Special Provisions apply

3 Certificate of Occupancy required

4 Expires 8/5/2012 as an interim bylaw; effective 7/9/2012 as a permanent bylaw

Article 3: General Provisions

3.1 Required Frontage On, or Access To, Public Roads

(As required by Sect. 4412(3) of The Act)

No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Planning Commission, access to such a road or waters by a permanent easement or right-of-way at least fifty (50) feet in width. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Permits may be granted for land that does not have frontage on a public road provided access is available by a permanent easement or right-of-way.

The location of the permanent easement or right-of-way must be shown on a Mylar. After approval by the Planning Commission, the Mylar and a deed which fully sets forth and describes the right-of-way must be recorded with the Town Clerk.

3.1.1 Location of Driveways

The minimum distance between a driveway entrance or exit and any road intersection or junction shall be as follows:

One and two family residential:	50 feet in Village District
	100 feet for all other Districts
All other uses:	100 feet

3.2 Conservation of Natural Resources

3.2.1 Agricultural Zoning *(Amended January 6, 2011)*

Prime land identified by the Natural Resources Conservation Service (NRCS) as AP - prime @ or AS - statewide significant@ and as described in the Farmland Classification System for Vermont Soils, published by the United States Department of Agriculture (USDA) - NRCS and available at <http://www.nrb.state.vt.us/lup/publications/importantfarmlands.pdf>, is land to be preserved.

These lands are shown on the map, Alimportant Farmland Soils, Weathersfield, Vermont@ printed by Southern Windsor County Regional Planning Commission (SWCRPC) based on data provided by the USDA. Additional information can be obtained from the USDA WebSoil Survey at <http://websoilsurvey.nrcs.usda.gov/app/>.

Applicants or interested parties may challenge applicability of this section 6.10.7 to a project site. Challenges may be based upon the “Farmland Classification System for Vermont Soils” and/or the “Weathersfield, VT, Farmland Conversion Impact Rating” (Appendix #3). A score of less than 160 points on the Weathersfield, VT, Farmland Conversion Impact Rating shall exempt a project site from this Section 6.10.7.

Land uses on P- or S- designated soils other than agricultural or forestry shall require a conditional use permit from the Zoning Board of Adjustment. The Zoning Board shall condition the proposed land use so as to maximize preservation of the protected soils. In no event shall the total area of impermeable surfaces on the P- or S-designated soils - existing and proposed combined - exceed 10% of the total area of the mapped protected soils on the parcel.

A conditional use permit shall not be required when an attached addition to an existing building is proposed that will not result in greater than 10% impermeable surface on the protected soil or on lots which contain three (3) or less acres of contiguous P- or S-designated soils or for an accessory structure that is to be located within 50 feet of the primary structure and that will not result in greater than 10% impermeable surface on the protected soil.

Impermeable surface is defined for the purpose of this bylaw as any manmade surface including, but not limited to, paved and unpaved roads, parking areas, roofs, driveways, walkways, decks and pools that disturb the soil such that it is no longer useable for agricultural purposes.

3.2.2 Biological Natural Areas Survey, 1992

As authorized in 24 V.S.A. §4411, places having unique ecological interest or value may be regulated in all districts.

Applications for Site Plan Review and Conditional Use must include a statement that the “1992 Biological Natural Areas of Weathersfield, Vermont”, prepared by Elizabeth H. Thompson, has been reviewed for potential disturbances or threats. This publication is available at the Town Office.

3.2.3 Connecticut River

Setbacks along the Connecticut River shall be a minimum of 100 horizontal feet from the ~~mean~~

high water mark top of bank or top of slope. Flood Hazard and/or River Corridor provisions may also apply (see Section 5.7).

Construction of docks and landings are conditional upon approval of the U.S. Army Corps of Engineers and the Vermont Fish and Wildlife Department.

Any development along the Connecticut River shall be evaluated for the impact it will have on the scenic, recreational, ecological, and agricultural value of the River.

The Connecticut River Joint Commissions: Corridor Management Plan shall serve as a reference to guide the protection of resources of the Connecticut River Valley.

3.2.4 Deer Wintering Areas

In all districts, development within 300 feet of a State designated deer wintering area shall be permitted as a conditional use subject to the following limitations:

Any road or development shall be sited to have the least amount of negative impact on the viability of the deer wintering area;

An adequate amount of softwood cover shall be left undisturbed to ensure the viability of the area, whenever possible.

Consultation with the Department of Fish and Wildlife in the Vermont Agency of Natural Resources or with the Weathersfield Conservation Commission is available and encouraged. Refer to Sect. 6.10.9 "1992 Biological Natural Areas of Weathersfield, Vermont".

3.2.5 Pond Construction

- a) To protect:
 - the lives and property of citizens,
 - the infrastructure of the community, and
 - the health of the natural environment,
 - the construction of ponds shall require a zoning permit.
- b) The purpose of regulating construction is:
 - to reduce the possibility of failure from improper design or construction,
 - to minimize potential flood damages incurred to upstream properties by the storage of flood waters, and
 - to minimize the damages caused by the sudden release of stored waters from a failure of the dam or intentional rapid draining of the impoundment.
- c) The creation of ponds and other impoundments less than 5,000 cubic feet is allowed as an accessory use upon application and receipt of a zoning permit.
- d) A pond 5,000 cubic feet or more shall require a conditional use permit.
- e) The construction of any pond upon any permanent or seasonal stream, or using stream water as a source, is prohibited, unless approved by the Vermont Department of Environmental Conservation, in accordance with 10 V.S.A., Chapter 41.
- f) Pond discharges into a stream may be possible provided they do not violate the Vermont Water Quality Standards for temperature, dissolved oxygen, and turbidity of the permanent stream or pond receiving the discharge.
- g) Any pond involving the impoundment of water through the creation of an embankment, berm or other structure that exceeds the natural grade must provide documentation from a licensed engineer of the likely results of catastrophic failure of the impoundment. This exercise is not to evaluate the likelihood of failure but to examine worst case scenarios (terrorism, major accident, extreme negligence, etc.).

- h) All impoundments must have an emergency spillway, designed by a Vermont licensed engineer, capable of passing flows that exceed what the control structure is capable of handling. All drainage shall flow into established watercourses.

Conditional Use Review

All ponds and other impoundments 5,000 cubic feet or more are subject to conditional use review. In granting approval, the Zoning Board of Adjustment shall find that the proposed pond is located where failure of the embankment, berm, or other structure would not cause:

1. Loss of life;
2. Injury to persons or livestock;
3. Damage to residences, commercial or industrial buildings;
4. Damage to roads, bridges, culverts, or other infrastructures; or
5. Interruptions of the use of public utilities.

Conditions of Approval

Upon issuance of conditional use approval, the Zoning Board of Adjustment shall duly note that the owner of the property is responsible for the safe functioning of the pond and is liable for its failure if the owner does not maintain, repair, or operate the pond in a safe and proper manner.

Construction Standards

1. Excavated soil must be disposed of in an upland site so as not to wash back into water bodies and wetlands. All areas above the pond's waterline stripped of vegetation during construction must be seeded and mulched as soon as possible after construction is completed.
2. The banks of ponds should be no steeper than a 3:1 slope (i.e., three feet horizontally to one foot vertically) out to a depth of three feet.
3. Ponds and their supporting structures shall not encroach on highway rights-of-way.

3.2.6 Rare and Endangered Species

In all districts, development in or near areas that have been designated by the State Department of Fish and Wildlife as:

- Significant natural communities;
- Natural/fragile areas; and/or
- near sites of plants or animals on the Vermont Endangered and Threatened Species list;

shall be permitted as a conditional use subject to the following limitations:

- a) any road or development shall be sited to have the least amount of negative impact on the viability of the area;
- b) applicants shall submit a plan for leaving the sensitive area undisturbed.

Consultation with the Department of Fish and Wildlife in the Vermont Agency of Natural Resources or the Weathersfield Conservation Commission is available and encouraged.

Refer to Sect. 6.10.9 "1992 Biological Natural Areas of Weathersfield, Vermont".

3.2.7 Steep Slopes and High Elevation

These lands are most often located in forested areas that serve as vital groundwater recharge and critical habitat and travel corridors for wildlife.

These areas are better left undisturbed.

Development shall be sited in a manner that will cause a minimum of disturbances to the natural

landscape and is prohibited on land 1,500 feet or above elevation and on slopes greater than 25%.

These conditions make the land highly susceptible to erosion and should be protected from any development.

3.2.8 Streambank Conservation *(Amended November 22, 2011)*

Purpose

The purpose of this bylaw is to prevent:

- erosion of the soil adjacent to streams;
- sedimentation of streams;
- destruction of stream bank habitat.

Application

This bylaw shall be applied to any stream wherever the stream channel width is greater than 4 feet at the regular high water mark. These streams shall be referred to as “protected streams”. (See definition of stream.)

Method

- A naturally vegetated buffer strip of no less than 25 feet shall be maintained on the banks of protected streams.
- The width of the buffer strip shall be measured from the ~~regular high water mark~~ top of bank or top of slope ~~(see definition of regular high water mark, Section 8) of the protected stream to the top of the stream bank or 25 feet, whichever is less.~~
- ~~▪ The buffer strip width shall be measured as the tape lies.~~
- New development or improvements to existing development located within the 25 foot buffer areas shall be subject to the Flood Hazard and/or River Corridor provisions in accordance with Section 5.7.
- No ~~new development or~~ manipulation of the buffer vegetation, other than approved management practices or approved stream crossings, shall occur within the buffer strip.
- ~~▪ Stream crossings shall be approved by the State of Vermont River Management Program where required by the State of Vermont.~~
- ~~▪ No structure shall be placed within 10 feet of the buffer strip.~~
- ~~▪ No structure shall be placed or erected within 10' of the buffer.~~
- ~~▪ No structure that requires a zoning permit shall be placed within 50 feet of the buffer strip.~~
- ~~No structure requiring a building permit shall be erected within 50' of the buffer.~~

Approved Management Practices

The following activities are allowed to occur within a protected stream bank buffer:

- Removal of invasive species
- Cutting hazard trees and/or limbs (stump shall remain)
- Removal of debris

3.2.9 Wetlands

A naturally vegetated buffer strip shall be maintained, of at least 50 feet in uniform width, for Class Two wetlands, and 100 feet in uniform width, for Class One wetlands.

No development, dredging, ditching or manipulation of vegetation will be permitted within the buffer strip or within the wetland unless in conformance with the Vermont Wetlands Rules.

(For conformance requirements, the applicant should contact the Vermont Department of Environmental Conservation.)

3.3 Damaged Structures *(Amended November 22, 2011)*

Within forty-eight (48) hours, the property owner shall post warnings and take precautionary measures upon and around the premises to insure the safety and welfare of the public.

Within six (6) months after any building or structure has burned, collapsed, or otherwise been destroyed or demolished, all structural materials shall be removed from the site and the excavation thus remaining shall be covered or filled to existing grades. An extension of time for such site work may be granted by the Zoning Administrator under extenuating circumstances (e.g. insurance delays, financing, weather, etc.).

Nothing in these zoning bylaws shall prevent the commencement of reconstruction or restoration within eighteen (18) months of a building damaged by fire, accident, or act of God, to its condition prior to such damage. Such reconstruction shall be a permitted use and no Special Procedures shall apply, excepting the reconstruction of buildings located in flood hazard areas for which a permit is required under Section 6.20 - Floodplain and Floodways. An extension of time for such reconstruction may be granted by the Zoning Administrator under extenuating circumstances (e.g. insurance delays, financing, weather, etc.).

3.4 Nonconformities

3.4.1 Nonconforming Lots and Parcels *(as required by Sect. 4412 of The Act)*

3.4.1.1 Existing Small Lots *(Amended November 22, 2011)*

Lots in individual and separate and nonaffiliated ownership from surrounding properties in existence on the effective date of these Bylaws (see Definitions), may be developed for the purposes permitted in the district in which they are located, even though not conforming to minimum lot size requirements, if such lots are not less than one-eighth acre in area with a minimum width or depth dimension of forty (40) feet, provided the plans for any proposed water and sewage provisions comply with applicable state and town regulations.

3.4.1.2 Merger, any district *(Amended November 22, 2011)*

If a lot not conforming to the minimum lot size requirements in the district in which it is located subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall not be deemed merged with the contiguous lot.

3.4.2 Nonconforming Structures *(Amended November 22, 2011)*

Nonconforming structures (see Definitions, section 8) may be maintained and repaired.

Nonconforming structures may be enlarged horizontally in any manner such that the resulting footprint complies with the current setback requirements of the zoning district in which the nonconforming structure is located.

Nonconforming structures may be enlarged vertically, so long as the vertical enlargement does not exceed the current height limitations stated in [section 6.12](#) of these bylaws and the enlargement is made within the existing footprint of the nonconforming structure.

3.4.3 Nonconforming Uses *(Amended April 10, 2012)*

Nonconforming uses (See Definitions, [Section 8 Article 7](#)) may be continued indefinitely as follows:

- a) The Board of Adjustment, after a conditional use hearing, may permit:
 - moving,
 - enlarging by up to 50% of original size,
 - altering, or
 - changing to another nonconforming use;

- but increase of external evidence of nonconforming use shall be kept to a minimum.
- b) Once such nonconforming use has been discontinued for the Time Period or has been changed to or replaced by a conforming use, it shall not be re-established.

The Time Period shall be measured from the day after the nonconforming use was discontinued to the day it is resumed.

The Time Period is defined as three years plus the time for completion of any appeal(s) of any zoning by law decision(s) relating to the parcel on which the nonconforming use existed.

Intent to resume a discontinued nonconforming use shall not confer the right to do so.

If the temporary discontinuation is due to the time needed for restoration after serious damage from any cause, or if it is due to causes beyond the control of the owner, the Board of Adjustment may grant extensions of time due to extenuating circumstances.

3.5 Off-Street Parking

3.5.1 Nonresidential parking lots shall be properly landscaped, screened or hidden from public highway view and from the view of person within residential districts.

3.5.2 Commercial, Small Enterprise, or Industrial parking lots adjacent to residential uses shall be setback a minimum of fifty (50) feet. In village districts, a four (4) foot high, solid fence shall be used in lieu of a 50 foot setback.

3.5.3 Off-Street Parking shall be provided as follows:

- a) Residential - Two spaces per dwelling unit.
- b) Professional Office - One parking space plus an additional parking space for every two hundred (200) square feet of office space.
- c) Commercial, Small Enterprise, Business and Unspecified Uses - One parking space for every motorized vehicle used in business, plus one parking space for every four hundred (400) square feet of floor area.
- d) Home Occupation/Home Industry - In addition to applicable requirements outlined above parking shall be regulated as indicated in Sect. 6.6.1 and 6.6.2.
- e) Parking Space Size - The size of a parking space shall measure 9 feet by 18 feet.
- f) Parking configuration - Parking spaces of 90° shall use an aisle width of 24 feet. Other parking configurations shall be reviewed and approved on a case-by-case basis.
- g) Parking needs for pre-existing buildings - will be determined on a case-by-case basis and may include off-site parking on street where appropriate.

3.5.4 Handicapped parking spaces shall be provided as follows:

- a) For public structures - A minimum of one handicapped space with an additional space for every twenty-five (25) regular parking spaces.
- b) For Commercial structures - (excludes Home Occupations and Home Industries.) A minimum of one handicapped space with one additional handicapped space for every twenty-five (25) regular spaces.
- c) For Industrial/Manufacturing structures - A minimum of one handicapped space, plus one additional handicapped space for every twenty-five (25) regular spaces.

All new parking areas will meet the requirements of the Americans with Disabilities Act and any revisions thereto.

3.6 Outdoor Lighting

Structures and exterior areas should be illuminated only at levels necessary to ensure safety and

security of persons and property. All exterior lighting shall be directed downward and shielded from public roads, nearby residences, and distant vantage points. Full cut-off fixtures shall be used. These methods also protect the enjoyment of the night sky, a valuable resource to many residents.

The information in Sections 7.20.1, 7.20.2, and 7.20.3 is used by permission and taken from the Department of Public Service publication "2005 Vermont Guidelines for Energy Efficient Commercial Construction." It applies to both residential and commercial uses in the Town of Weathersfield.

3.6.1 Exterior Lighting

When the power for exterior lighting is supplied through the energy service to the building, all exterior lighting, other than low-voltage landscape lighting, shall comply with Sections 7.20.2 and 7.20.3.

Exception: Where approved because of historical, safety, signage or emergency considerations.

3.6.2 Exterior building grounds lighting

All exterior building grounds luminaires that operate at more than 30 watts shall contain lamps having a minimum efficacy of 60 lumens per watt unless the luminaire is controlled by a motion sensor or qualifies for one of the exceptions under Section 7.20.3. Appropriate exterior lighting designs including maximum exterior illuminance levels and cut-off exterior lighting fixtures may be required by the District Environmental Commission for Act 250 projects. Maximum height to the top of fixture shall be no more than 20 feet.

3.6.3 Exterior building lighting power

The total exterior lighting power allowance for all exterior building applications is the sum of the individual lighting power allowances based on the densities permitted in Appendix #1: "Lighting Power Densities for Building Exteriors" for these applications plus an additional unrestricted allowance of 5 percent of that sum. Trade-offs are allowed only among exterior lighting applications listed in the table's "Tradable Surfaces" section. Exterior lighting for all applications shall comply with the requirements of 7.20.2. Exceptions shall require a variance from the Zoning Board of Adjustment.

3.6.4 Canopy Lighting

The purpose of canopy lighting is to provide a level of illumination that is adequate to permit the covered activity to be conducted in a safe environment. The following conditions shall apply to canopy lighting:

- a) The average initial lighting level, under the canopy, shall not exceed 35 foot candles.
- b) Fixture (luminaire) and/or canopy and/or site design shall be such that discomfort from glare, from viewing either the lamp or the lens (luminaire), or from other significant reflections, is eliminated from any viewing point located off-site.
- c) Canopy lighting shall not be allowed to escape upward, in a direct line.
- d) Lighting of the canopy area shall be provided by an energy efficient light source.

3.7 Performance Standards

In accordance with 24 V.S.A. Sect. 4414(5), the following standards of performance are to be met and maintained by all uses in all districts.

In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.

3.7.1 No land or structure in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby properties.

3.7.2 The following standards apply to all uses, with the exception of agriculture and forestry. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all successors and assigns. No use, under normal conditions, shall cause, create or result in:

- a) **Noise pollution**, as it is recognized that excessive noise is a serious hazard to the health, welfare and quality of life of all citizens and that each person has a right to an environment free from noise that may jeopardize their health, safety, or welfare. (See Section 8 for Definitions.)

- 1) **Noise Levels and Guidelines:** Noise zones within the Town of Weathersfield shall be classified according to the zoning applicable to the parcel or tract of land from which noise is emitted and surrounding parcels or tracts on which noise is received. Any parcel whose use is lawfully nonconforming to its zone at the time this bylaw is enacted shall be classified for noise emission purposes according to the zone appropriate for the nonconforming use. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this Subsection. Measurements shall be taken at a point that is located approximately one (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises include his/her individual unit of land or ground or contiguous parcels under the same ownership, as indicated by the public land records.

No person shall cause or allow the emission of impulse noise in excess of eighty (80) decibels peak sound pressure level during the nighttime to any residential zone. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) decibels peak sound pressure level at any time to any zone.

A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation. Instruments used to determine sound level measurements shall be sound level meters, as defined in Section 8.

- 2) **High Background Noise Areas:** In those individual cases where the background noise levels caused by sources not subject to this Section exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5dBA, provided that no source subject to the provisions of Subsection (a) shall emit noise in excess of 80dBA at any time, and provided that this Subsection does not decrease the permissible levels set forth in any other Subsection of this bylaw.
- b) Noticeable, or clearly apparent **vibration** which, when transmitted through the ground, is discernible at property lines without the aid of instruments;
 - c) **smoke, dust, odors, noxious gases, or other forms of air pollution** which constitute a nuisance to other landowners, businesses, or residents; which endanger or adversely affect public health, safety, or welfare; which cause damage to property, business, or vegetation; or which are offensive or uncharacteristic of the area;
 - d) Releases of **heat, cold, moisture, mist, fog, precipitation or condensation** beyond the property lines of the property on which it is located, or to a height likely to be detrimental to the public safety, health, or welfare.
 - e) Any **electromagnetic disturbances, or any electronic emissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to the public health, safety and welfare, beyond the property lines of the property on which it is located;
 - f) **glare, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is detrimental to the

public health, safety, or welfare;

- g) **liquid or solid wastes or refuse** in excess of available capacities for proper disposal; which cannot be disposed of by available or existing methods without undue burden to municipal facilities; which pollute ground and surface waters; or which are otherwise detrimental to the public health, safety, and welfare; or
- h) Undue **fire, safety, explosive** or other hazard which endangers neighboring properties or the general public or which results in a significantly increased burden on municipal facilities and services.

3.7.3 Agricultural operations shall at a minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture.

3.7.4 Forestry operations shall at a minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation.

Zone in Which Emitter is Located	Zone in Which Receptor is Located					
	Industrial	Commercial	Hamlet / Village Daytime Hours	Hamlet / Village Nighttime Hours	Residential Daytime Hours	Residential Nighttime Hours
Industrial	65 dB	60 dB	60 dB	45 dB	55 dB	45 dB
Highway Commercial	60 dB	60 dB	60 dB	45 dB	55 dB	45 dB
Village/Hamlet/RR1	60 dB	60 dB	60 dB	45 dB	55 dB	45 dB
Residential (RRR 3- 5,C10)	55 dB	55 dB	55 dB	45 dB	55 dB	45 dB

3.8 Signs

Signs shall be deemed land development as herein defined and shall require a zoning permit except as specifically provided in this bylaw.

3.8.1 General: Applicable to all Zoning Districts

- a) For purposes of this bylaw, the total area of a sign shall be calculated as the area of the smallest standard geometric shape which will fully encompass the sign, including frame or border, if present.
- b) All outside signs must be constructed of durable materials and shall be maintained in good condition and repair at all times. Signs shall be limited to a depth of twenty-four (24) inches, including the support structure. If both faces of a single sign are utilized, the square footage of one face shall be calculated and the two faces shall count as one sign.
- c) Illumination for signs shall be shielded and pointed downward in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon the sign itself.
- d) Signs which are illuminated from within, rotate or are animated, flashing or with intermittent illumination are prohibited.

- e) Signs shall not be placed within ten (10) feet of the edge of the traveled portion of public roads, or so as to obstruct the view of traffic in any case, or within ten (10) feet of property lines.
- f) A bulletin board in connection with any church, school, similar organization, or other public place including commercial establishments is allowed without zoning permit or fee. The bulletin board shall not exceed thirty-two (32) square feet nor display advertising for items sold on the premises.
- g) Signs for the sole purpose of public safety, information, or directions, but bearing no advertising matter are allowed without permit or fee. Such signs shall not exceed two (2) square feet in area.
- h) A temporary real estate sign not exceeding six (6) square feet in area or a temporary construction sign not exceeding thirty-two (32) square feet in area is allowed without either zoning permit or fee, on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.
- i) Temporary signs for irregularly scheduled public events such as auctions, suppers, and meetings are allowed without either zoning permit or fee on or off the premises and need not be of durable materials. They shall conform to all requirements, shall be placed not more than one week in advance of the event, shall be removed no later than the day following the cessation of the event, and shall be limited to a total display period of two weeks.
- j) Any sign deemed to be in disrepair by the Administrative Officer, if not repaired after thirty (30) days' notice from the Administrative Officer, shall be removed by the owner.
- k) All new signs, and/or movement, enlargement, alteration, or reconstruction of existing signs shall be in compliance with the regulations as stated herein. Repainting or changing the message on a sign shall not be considered alteration.
- l) These provisions do not apply to such minor signs as "No Hunting" and "No Trespassing" and signs of a similar nature.
- m) For industrial and commercial uses, additional on-site signs may be permitted as a conditional use.
- n) Retail stores will be allowed two additional signs, not exceeding two (2) square feet each, to provide information regarding items sold on the premises. Said signs must be wall or window mounted.
- o) Signs shall be located on the property to which they pertain.

3.8.2 Signs in Residential (RR-1), (RRR 3-5), or Conservation (C10) Districts

- a) One sign not exceeding four (4) square feet in area is allowed without either zoning permit or fee. Such sign may be either free standing or building mounted, and shall not exceed eight (8) feet in overall height including supporting structure above the ground.
- b) For a home occupation or home industry, one free standing or building mounted sign not exceeding six (6) square feet in area is permitted. A building mounted sign shall have an overall height, including supporting structure, not exceeding twelve (12) feet. Such sign shall not extend above the roof line.
- c) For other permitted uses in these districts, one free standing or building mounted sign not exceeding twelve (12) square feet in area may be permitted with height limitations as in Sect. (b) above.

3.8.3 Signs in Village (V) and Hamlet (H) Districts

- a) One sign not exceeding four (4) square feet in area is allowed as in 7.9.2(a) above.
- b) One free standing or building mounted sign not exceeding twelve (12) square feet in area

may be permitted as in 7.9.2(b) above, with the following additional requirements:

- 1) Small Enterprise Uses: The free standing sign shall have an overall height including supporting structure not exceeding twelve (12) feet. The building mounted sign shall have an overall height including supporting structures, not exceeding eighteen (18) feet. Such sign shall not extend above the roof line.
- 2) Small Enterprise Multiple Uses: The total sign area specified in 7.9.3(b)(1) above may be increased to a total area of eighteen (18) square feet.

3.8.4 Signs in Highway/Commercial (HC) and Industrial (IND) Districts

- a) The primary purpose of signs covered in this section shall be for identification and the signs may state only the owner, trade names and trademarks, products sold and the business or activity conducted on the premises. Each permitted business shall be permitted signs in the following categories:
 - 1) One Free Standing Sign: not exceeding fifty (50) square feet in total area nor twenty five (25) feet in overall height, including supporting structure. Such a sign shall be located so as not to be hazardous to vehicles or pedestrians.
 - 2) One Building Mounted Sign: Not exceeding fifty (50) square feet in total area nor 85% of the length of the store fronts. Such a sign shall not extend above the roof or parapet of the building, nor exceed twenty (20) feet in overall height above the ground.
- b) No more than two signs to provide price information regarding items sold on the premises, not exceeding twenty-four (24) square feet in total area, in addition to the signs covered under 7.9.4(a)(2) above. Such signs may be free standing, building or structure mounted, but shall not exceed twelve (12) feet in overall height. Such signs shall be located so as not to be a hazard to vehicles or pedestrians.
- c) Multiple Uses: For the purpose of this section, multiple uses are two or more business entities on the same property, such as professional offices or a shopping plaza. Determination of applicability of this section will be made by the Zoning Administrator.
 - 1) Signs Permitted for a Multiple Use Site
 - a. One free standing composite sign announcing the name of the establishment or mall, as well as the names of the multiple offices or businesses. Such a sign shall not exceed forty (40) square feet in area and shall not exceed twelve (12) feet in overall height.
 - b. One sign for either Sect. 7.9.4(a)(1) or 7.9.4(a)(2).
 - 2) Signs Permitted for each Separate Business Within a Multiple Use Site
 - a. One sign as allowed under Sect. 7.9.4(a)(2).
 - b. No more than two signs to provide price information regarding items sold on the premises not exceeding twenty-four (24) square feet in total area, in addition to the signs covered under 7.9.4(a)(2) above. Such signs may be building or structure mounted but shall not exceed twelve feet in overall height.
 - c. Such signs shall be located so as to be non-hazardous to vehicles or pedestrians.

3.8.5 Signs for Gasoline/Service Stations; Applies in all Zoning Districts

The following provisions are in recognition of the unique characteristics of gasoline/service stations, including:

- a) the significant amount of out of doors business transactions; and
- b) the public safety need for approaching traffic to have clear visibility of product pricing information.

This section applies to all zoning districts, supersedes provisions in other sections, and includes

gasoline/service stations which are part of a multiple use.

- a) A gasoline/service station shall be permitted signs in any two of the three following categories:
 - 1) One free standing sign, not exceeding fifty (50) square feet in total area nor twenty-five (25) feet in overall height, including supporting structure. Such a sign shall be located so as not to be hazardous to vehicles or pedestrians.
 - 2) One building mounted sign, not exceeding fifty (50) square feet in total area nor 85% of the length of the store front shall be permitted. Such a sign shall not extend above the roof or parapet of the building nor exceed twenty (20) feet in overall height above the ground.
 - 3) For a structure or canopy, two signs not exceeding three (3) feet in height and not exceeding sixteen (16) feet in length. If the business has frontage on one road only, the signs shall be at opposite ends of the structure. If the business has frontage on two roads, one additional canopy sign, no larger than the size set forth above, shall be allowed in order to address approaching traffic from all directions, and
- b) Same as permitted under Sect. 7.9.4(b).

Article 4: Specific Use Standards

4.1 Accessory Dwelling Unit

An accessory dwelling unit shall be a permitted use in all residential districts (Village, Hamlet, Rural Residential, Rural Residential Reserve, and Conservation) and a conditional use in the Highway Commercial district. An accessory dwelling unit shall be defined as an efficiency or one-bedroom apartment, located within or appurtenant (see Definitions) to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:

- a) The property has sufficient wastewater capacity.
- b) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
- c) Applicable setback and parking requirements specified in the bylaws are met.

4. Airport Uses

- a) **Purpose:** To allow for airport-related non-residential uses that further local economic goals and support the continued viability of the Hartness State Airport in a scale and intensity that is appropriate for Weathersfield and is compatible with the character of the area.
- b) **Applicability:** Airport uses are allowed on parcels within the RR1 Zoning District that have direct frontage on Airport Road or Runway Road, and are subject to conditional use review by the Zoning Board of Adjustment.
- c) **Standards:**
 - 1) All conditional use standards under Section 5.4 shall apply.
 - 2) All performance standards under Section 3.7 shall apply.
 - 3) Minimum side and rear setbacks for airport uses shall be 30 feet.
 - 4) Landscaping shall be required in order to provide adequate year-round screening of the proposed airport use from adjacent residential uses. A minimum landscaped area shall be provided along the front, side, and rear property 15 feet in width for

the length of each property line. Landscaping shall include a mix of native shade and street trees, shrubs, planting beds and ground covers. Proposed landscaping and screening shall be designed to:

- i. Preserve and incorporate existing vegetation and enhance unique landscape features.
 - ii. Be adequately suited to existing site conditions and integrated with adjacent properties.
 - iii. Screen the proposed airport use from the view of surrounding residential uses.
 - iv. Not obstruct scenic views or road visibility.
- d) **Decisions:** In making a decision about a proposed airport use, the ZBA may require certain conditions in order to meet the applicable bylaw standards, reduce or eliminate impacts, or protect the interests of the surrounding properties, neighborhood or Town as a whole. These conditions may include, but need not be limited to, the following:
- 1) Business operations (e.g. hours of operation, frequency/time of use, trip generation, and truck traffic).
 - 2) Scale and intensity of the proposed airport use.
 - 3) Permanent maintenance of the required landscaping and screening.

4.2 Day Care Facilities

4.2.1 Child Day Care

Paid child day care as provided by a person or persons other than a child's own parents, guardian or relatives shall be considered under two separate categories: Baby-sitting Services and Day Care and Nursery School Facilities.

- a) **A Baby-sitting Service** is allowed in all districts and does not require a permit. It may be a formal or informal arrangement involving up to six children (not including the care providers own children);
- b) **Family Child Care Home or Facility:** A state registered or licensed family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property.

A state registered or licensed family child care home serving no more than six full-time children and four part-time children shall be a permitted use of property but requires site plan review and approval and a certificate of occupancy in all zones. In the Industrial Zone, they must be located within a residence as an accessory use; or affiliated with a parent's workplace as a service provided for employees.

A state registered or licensed family child care facility serving more than six full-time and four part-time children shall be subject to conditional use approval, site plan review and approval, and a certificate of occupancy in all zones. In the Industrial Zone, the facility must be located within a workplace as a service provided for employees.

4.2.2 Adult Day Care

Paid adult care as provided by other than a person's own relatives shall be considered under two categories: Adult Day Care Service and Adult Day Care Facilities. Any structure so used must be accessible to the disabled, and a safe place shall be provided for arrival and departures.

- a) **Adult Day Care Service:** permitted in all districts. It may be either formal or informal in arrangement and may involve up to three (3) adults;
- b) **Adult Day Care Facilities:** include any facility or facilities serving more than four (4) adults. Adult Day Care Facilities are conditionally permitted with a site plan review and a

Certificate of Occupancy in all zones except the Industrial Zone, where they are not permitted.

4.3 Extraction of Earth Resources

In accordance with 24 V.S.A., Sect. 4418, 4463 and 4465(b)(2), the extraction of gravel, sand, soil and minerals or the extension of such activities from existing operations shall require a Conditional Use Approval from the Board of Adjustment. In general, the extension of an existing operation occurs when a previously undisturbed land surface area is excavated.

The following standards for operation and the rehabilitation of soil, sand or gravel removal operations shall apply to new uses and to the extension of existing uses.

- a) New operations for the extraction of soil, sand, or gravel and existing operations desiring to extend a surface land area of extraction are required to submit a site plan to the Zoning Board showing the proposed land surface area for extraction or extension. Such operations must be located outside of village and hamlet districts.
- b) The removal of soil, sand, or gravel, except as incidental to the construction of a building or a road on the same premises, or except where extraction will not exceed 100 cubic yards per year, shall not be permitted until a plan for the rehabilitation of the site has been approved by the Zoning Board.
- c) The rehabilitation plan shall be submitted to the Board of Adjustment by the applicant at the same time as the site plan and shall outline excavation procedures which specify phasing of the operation whereby, upon completion of each phase, the excavated sections are left in a safe, attractive and useful condition. The Zoning Board may require a performance bond to cover the costs of such phased rehabilitation of the site. The review of the rehabilitation plan shall consider the following:
 - 1) slope rounding to a maximum 50% grade, if possible; and
 - 2) removal of debris, application of topsoil, mulching, fertilizing and replanting of the next section.

Rehabilitation work shall be supervised and approved by the Administrative Officer.

- d) All surface drainage resulting from the operation shall be controlled by the operator to prevent erosion, debris, and/or other loose materials from affecting any drainage course, road or private property.
- e) No blasting shall occur within 100 feet of any property line and no excavation or stockpiling of materials shall be located within fifty (50) feet of any abutting property line or public road unless a satisfactory written agreement has been reached with the abutting property owner involved and filed with the Zoning Administrator.
- f) No stationary power-activated crushing or sorting machinery or equipment shall be located within 300 feet of any occupied building without written and filed consent of the abutter, nor within 100 feet of a public road. All such machinery or equipment must be equipped with operating devices to eliminate or minimize dust.
- g) Any and all slopes created by excavations shall be adequately posted for public safety, as specified by the Administrative Officer, until rehabilitation is completed.
- h) Permanent structures shall comply with the setback and other requirements for the zoning district in which the operation is located.
- i) Stripping or removal of top soil, for sale or for use on other premises (except for the surplus soil made available by a construction project) is prohibited unless a minimum of a four inch layer of top soil will remain over the entire stripped area after removal.
- j) The hours, frequency and duration of operation of the facility shall not unduly affect the character of the immediate neighborhood area.

- k) The operation shall not adversely affect water quality, drainage patterns, or create excessive dust, traffic, vibration, or noise at the site or in areas of close proximity to the site.

4.4 Gasoline/Service Station Standards

Gasoline/service stations are conditionally permitted in Highway Commercial Districts and shall comply with the following standards:

- a) A gasoline/service station lot shall not be located within three hundred feet of any lot occupied by a school, hospital, library, cemetery or religious institution.
- b) Minimum lot size is one acre.
- c) Minimum lot frontage is 150 feet.
- d) Minimum lot depth is 125 feet.
- e) Pumps, lubricating and other service devices shall be located at least fifty (50) feet from all lot lines.
- f) All fuel and oil shall be stored at least thirty-five (35) feet from any property line.
- g) All automobile parts and dismantled vehicles are to be stored within a building and no major repair work is to be performed outside of a building.
- h) Signs shall conform to Sect. 7.9 of these Bylaws.
- i) There shall be only two access driveways or curb cuts from the street. The maximum width of each access driveway shall be forty (40) feet.
- j) A suitable curbed and landscaped area shall be maintained of at least five (5) feet in depth along all street frontages not to be used for driveway.
- k) Canopies over pumps shall be allowed to extend beyond the pump island a sufficient distance so as to provide protection against direct rain or snow fall and may be connected to the gasoline/service station directly or may be an independent structure.

The Zoning Board of Adjustment shall review plans for any canopy and shall be authorized to limit its size. Canopy clearance shall conform to industry standards, but overall height shall not exceed 18 feet.

- l) Any lighting shall conform to Sect. 7.20 of these Bylaws.

4.5 Home-Based Occupation and Home-Based Business ~~Industry~~

Home-Based Occupations and Home-Based Businesses shall not be considered to be accessory uses.

4.51 Home-Based Occupation

No zoning permit is required for a home-based occupation in accordance with Section 6.2.2(r).

~~Other provisions of these Bylaws notwithstanding, any Home Occupation (see definitions) considered as customary in residential areas shall be permitted subject to the following limitations:~~

- ~~— The primary purpose of the premises shall be that of private residence. The Home Occupation shall be carried on within the living area of the residence and shall occupy no more than 20% of the total square footage of the structure.~~
- ~~a) The Home Occupation shall be carried on only by members of the residing household.~~
- ~~a) No exterior display of merchandise shall be permitted.~~
- ~~a) No exterior storage of work related materials, equipment, wastes or other variations from the residential character of the premises shall be permitted.~~
- ~~a) External disturbances such as noise, vibration, smoke, dust, odor, heat, glare, electrical~~

~~interference, or line voltage variation shall not be permitted.~~

- ~~a) Sufficient off-street parking shall be provided to prevent on-street parking. Adequate screening of parking areas shall be provided.~~
- ~~a) The Home Occupation shall not generate traffic more than twice the number of average daily trips normally generated by a residence. (9.55 average daily trips per day, according to the Institute of Traffic Engineers' Trip Generation Manual, 1991 edition.)~~
- ~~a) The above limitation, with the exception of parking requirements, shall not apply to agricultural activities.~~

4.5.2 Home-Based Business-Level 1-Industry

- a) A home-based business that meets all these standards shall be considered a permitted use in all districts where a private residence is a permitted or conditional use. The Level 1 Home-Based Business meets all the criteria below and remains subordinate to the private residence.
 - 1. Conducted by the individual(s) who reside at the private residence;
 - 2. Employs a maximum of 4 additional employees;
 - 3. Occupies a maximum building area of 1500 square feet. The area allocated to the home-based business may be in the existing residential structure or in a new **or existing** outbuilding;
 - 4. Generates a maximum of 40 daily vehicle trips (defined as four times the number of average daily vehicle trips for a private residence);
 - 5. Does not create permanent exterior displays of products, storage of materials, or other visible indications of commercial activity;
 - 6. Does not generate noise, vibration, odor, glare, or other nuisances that are in excess of typical private residences and which are easily detectable from the public right-of-way or abutting properties;
 - 7. Provides year-round screening of business on-site parking from the public right -of-way and abutting properties; and,
 - 8. May display one non-illuminated, non-reflective sign, a maximum of nine square feet in size.
- b) The home based business zoning permit shall clearly define type of business, number of employees, square footage allocated to the business, and traffic generation. If required, the permit shall clearly define the landscaping and/or fencing that will be used to permanently screen the business from the public right of way and abutting properties. Any change to the original application shall require permit review.

~~Other provisions of these Bylaws notwithstanding, any Home Industry (see definitions) considered as customary in residential areas shall be permitted as a conditional use subject to the following limitations:~~

- ~~b) The primary purpose of the premises shall be that of private residence. The Home Industry shall be carried on within the residence or within an accessory outbuilding of the residential structure. If the Home Industry is located within the residential structure, it shall occupy less than 50% of the total square footage of the structure. The land area occupied by an accessory outbuilding used for a Home Industry shall not exceed 400 square feet per acre of lot size, not to exceed 4,000 square feet of land area.~~
- ~~c) Setback of an outbuilding used for a Home Industry shall be a minimum of 100 feet from all property lines and a minimum of 300 feet from any residential dwelling unit located on any lot other than that of the residential owner with the Home Industry. The Home Industry shall be carried on by members of the residing household, plus no more than two~~

additional employees

- ~~d) No exterior display of merchandise shall be permitted.~~
- ~~e) No exterior storage of equipment, wastes, work materials, nor any other variations from the residential character of the premises shall be permitted.~~
- ~~f) Electrical interferences and/or line voltage variations shall not be produced at objectionable levels.~~
- ~~g) Noise, vibration, smoke, dust, odor, heat, glare, or other off-site disturbance shall not exceed levels characteristic of the residential area in which the Home Industry is located.~~
- ~~h) Off-street parking shall be provided to accommodate the traffic generated related to the Home Industry, with one parking space provided for each additional employee. The minimum number of parking spaces required for traffic generated shall be determined by the Zoning Board of Adjustment. In addition, two parking spaces shall be provided for the residential owner. (See parking requirements: Sect. 6.14.3) Adequate screening of parking areas shall be provided.~~
- ~~i) The traffic generated by a Home Industry shall be in character with the District in which it is located. (See Sect. 4.3)~~
- ~~j) The above limitations, with the exception of parking requirements, shall not apply to agricultural activities.~~
- ~~k)a) _____ Auto body shops and auto sales lots shall not be allowed as Home Industry.~~

4.5.3 Home-Based Business-Level 2

- a) A home based business that meets all these standards shall be considered a conditional use in all districts where a private residence is a permitted or conditional use. The Level 2 Home Based Business meets all the criteria below and establishes a mixture of residential and commercial activity on the property.
 - 1. Conducted by the individual(s) who reside at the private residence;
 - 2. Employs a maximum of 6 additional employees;
 - 3. Occupies a maximum building area of 5000 square feet. The area allocated to the home based business may be in the existing residential structure or in a new or existing outbuilding;
 - 4. Generates a maximum of 60 daily vehicle trips (defined as six times the number of average daily vehicle trips for a private residence); and,
 - 5. May display two non-illuminated, non-reflective signs, with a per sign maximum of fifteen square feet in size.
- b) The Level 2 Home Based Business conditional use permit shall clearly define type of business, business hours to include times/days that have retail related activities, number of employees, square footage allocated to the business, traffic generation, exterior displays of products, areas for storage of materials, limitation for noise, light, or other business related impacts which are detectable from the public right-of-way or abutting properties. A change to the original application shall require conditional use review.

4.6 Junkyards, Scrap Materials, Recycling Facilities, and Landfills (privately owned)

No person shall construct or operate a junkyard, recycling facility, landfill, or similar facility, without first obtaining site plan approval and Conditional Use approval from the Board of Adjustment, a Certificate of Occupancy, and the necessary State permit. The Board of Adjustment must consider the protection of the public welfare and may attach such conditions as it finds necessary to do so. The Board of Adjustment may also deny a permit when in its determination it finds that

the addition of the proposed facility would adversely affect the neighborhood or the Town in terms of public health, safety, and/or welfare.

4.7 Low and Moderate Income Housing

In accordance with the Act §4412, no provision of these bylaws shall have the effect of excluding low and moderate income housing, which includes mobile homes and modular (or prefabricated) housing discussed in Section 7.4.

4.8 Mobile Homes and Modular (or Prefabricated) Housing

- a) Within these Bylaws, mobile homes and modular (or prefabricated) housing shall be subject only to the same regulations that are applied to conventional single family dwelling units.
- b) Only unoccupied mobile homes shall be permitted on approved mobile home sales lots.

4.9 Mobile Home Parks

In accordance with 10 V.S.A., Chapter 153, Sect. 6204(a) and 24 V.S.A., Sect. 4412, the following zoning regulations shall apply to mobile home parks:

- a) No person shall construct or operate a mobile home park (more than 2 units) without first obtaining site plan approval and a permit from the Board of Adjustment, and a State mobile home park permit. Minimum lot size per dwelling unit shall be in accordance with State regulations instead of the applicable Zoning District minimum. Setback requirements must be met with respect to adjacent property boundaries in conformance with the district in which the mobile home park is located.
- b) Application for a mobile home park permit shall include a site plan showing the property lines and area of the park, contour lines at a maximum of one (1) foot intervals, roads, walkways, individual mobile home lots, parking areas, proposed water supply and sewage systems, drainage facilities, electrical distribution lines, a north arrow, date, and the name of the person or firm who prepared the site plan. In addition, the proposed mobile home park must comply with the following standards:
 - 1) A mobile home park shall have an area of no less than five (5) acres.
 - 2) Mobile home parks shall provide for individual mobile home lots, access driveways, parking, and recreation open space.
 - 3) Each mobile home must have frontage onto an access driveway, which must be at least 50 feet in right-of-way width and have a gravel surface at least 24 feet in width and twelve inches in depth of compacted gravel. All-weather walkways shall be provided.
 - 4) A mobile home park shall provide at least 11,000 square feet of lot area for each mobile home with a minimum of 8,000 square feet in area for each mobile home lot and a minimum of 3,000 square feet in common open space, exclusive of roads per mobile home. This requirement shall not include the land required for Section 7.5.(b)(5).
 - 5) A mobile home park shall provide at least two parking spaces per mobile home unit, plus an additional parking space for every two units proposed for the park, to accommodate visitors. Said parking spaces must either be paved or graveled with a dimension of at least 9 feet in width and 22 feet in length. These dimensions may not be included to fulfill any part of the requirements of Section 7.5.(b)(4).
 - 6) A buffer strip of land, at least 100 feet in width, shall be maintained as a landscaped area within and abutting all property lines and public road frontage of the mobile home park. No structures shall be permitted within this buffer strip.
 - 7) Each mobile home must have an attachment for water supply. The source for the water supply must be approved by the Agency of Natural Resources or other appropriate State Agency.
 - 8) Each mobile home must have an attachment for sewage disposal. The method for the disposal of sewage must be in compliance with the regulations of the Agency of Environmental Conservation or other appropriate State Agency.
 - 9) The base of each mobile home shall be adequately skirted.

4.10 Public Utility Substations

Public utility substations and similar utility structures, where permitted, shall be surrounded by a fence and exclusive of the fence, shall comply with the setback requirements of the districts in which they are located.

4.11 Renewable Energy Production

Windmills of unlimited height for producing energy shall be permitted in all districts as a conditional use, provided that minimum setback requirements for the District are met and that the setback for the structure is no less than its total height. Any resultant noise or electrical disturbances must not exceed customary neighborhood tolerances.

4.12 Seasonal Road Stands

Any new seasonal road stand shall comply with the setback requirements of the zoning district in which it is located and shall meet the requirements of Sect. 6.14.3(c) for off-street parking.

4.13 Self-Storage Facility

(Expires August 5, 2012 as an interim bylaw; effective 7/9/2012 as a permanent bylaw)

The following special provisions apply to self-storage facilities:

- a) Wholesale or resale sales are prohibited at self-storage facilities.
- b) Garage sales conducted by each lessee or renter are permitted. However, such activities by each lessee or renter shall not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.
- c) Sufficient off-street parking shall be provided to prevent on street parking.
- d) Auctions conducted by the facility manager are allowed, but only when a tenant is in default of his/her lease agreement.
- e) The storage of Hazardous Materials is prohibited.
- f) This use is exempt from the requirements of section 6.14 of the Weathersfield Zoning Bylaws.
- g) Residential provisions for on-site management are allowed as an accessory use subject to water/wastewater disposal accommodations.
- h) In addition to storage buildings, a Self-Storage Facility may also include outdoor storage areas the total size of which shall not exceed 20% of the gross floor area of the facility's storage buildings. Such storage areas shall be screened pursuant to the requirements of Section 7.8.5 of these Zoning Bylaws and shall meet the setback requirements for the zoning district in which the facility is located. Such areas are not to be considered "parking lots" or "parking areas".

4.14 Storage of Flammable Liquids and Gases

The storage of any flammable liquid or gas in a tank with a capacity of more than 1,000 gallons above the ground shall be permitted only upon approval of the Board of Adjustment, which may attach such conditions as it finds necessary to protect the public welfare. Any such use must also comply with the following:

- a) Tanks with a capacity greater than one thousand (1,000) gallons, but less than ten thousand (10,000) gallons shall be placed not less than eighty (80) feet from all property lines and from all other such tanks.
- b) Tanks with a capacity exceeding ten thousand (10,000) gallons shall be placed not less than two hundred (200) feet from all property lines and from all other tanks regulated by this Section.
- c) Any such tank(s) with a capacity exceeding one thousand (1,000) gallons for the storage of flammable liquids shall be completely surrounded by proper retaining dike(s). Said dike(s) must have a capacity of no less than one and one half times the total capacity of the tank(s) that they/it surrounds.

4.15 Subdivision of Lots

No lot shall hereafter be divided into two or more lots unless each lot resulting from such division conforms to all of the applicable regulations of the zoning district in which that lot is located. In addition, any property so divided must conform to Weathersfield's Subdivision Regulations and is subject to Planning Commission approval. Property under common ownership but which is divided by a public road or by the Black River/North Branch of Black River will be considered as separate parcels.

4.16 Temporary Uses and Structures

Temporary permits may be issued for a period of one year for nonconforming uses or nonconforming structures incidental to construction projects as follows:

- a) By the Administrative Officer when an existing dwelling unit located in Weathersfield has become unlivable as a result of disaster.
- b) By the Administrative Officer as long as setback requirements are met.
- c) By the Zoning Board of Adjustment in all instances not covered in 6.8 (a) and 6.8 (b) above. A permit so issued is conditional upon agreement by the owner to discontinue the nonconforming use or remove the non-complying structure upon the expiration of the permit.

4.17 Travel Trailer Camping Areas

No person shall construct or operate a travel trailer camping area, or an on- premises travel camping facility for migratory agricultural workers, without first obtaining site plan approval and a permit from the Board of Adjustment, and a State travel trailer camping area permit.

Proper provisions must be made for traffic as well as sufficient distance and natural screening to avoid disturbances such as noise and smoke to residential areas.

4.18 Travel Trailers/Camping Vehicles

Travel trailers, campers, pick-up campers and motor homes shall be parked only in approved travel trailer camping areas or sales lots; except that a property owner may park his own, or a guest's travel trailer on his/her property (beyond the required setbacks for the district in which it is located), and these may be used as temporary living quarters by non-paying guests for periods of up to four weeks.

In no event, shall travel trailers be considered as permanent residences.

4.19 Wireless Communication Facilities

Purpose: To regulate the construction, alteration, development, decommissioning or dismantling of wireless communication facilities and ancillary structures and improvements. Activities regarding the decommissioning or dismantling of communication facilities and ancillary structures may include requirements that a bond be posted, or other security acceptable to the Zoning Board of Adjustment, in order to finance the decommissioning or dismantling of all or any portion of the facility. Pursuant to 24 V.S.A Section 4440(d), the Board is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

4.19.1 Wireless Communications Facilities

A wireless communication facility is a conditional use in any District. In addition to the relevant bylaws, the Board shall review an application for a wireless telecommunications facility for compliance with this Section 7.22 as well as the conditional use standards in Section 9.2.4, and may attach certain additional requirements or conditions to a permit.

4.19.2 Wireless Telecommunications Facilities

- a) An applicant for a telecommunications tower or facility must be a telecommunications provider or must provide a copy of its lease/contract with an existing telecommunications provider. A permit shall not be granted for a tower to be built on speculation.
- b) In addition to information otherwise required under this bylaw, all applications for wireless communications facilities shall include the following supplemental information:
 - 1) The name and address of the applicant, the record landowners, and any duly appointed agents of the landowners or applicants. If the applicant is not a natural person, the name of the business and the state in which it is registered shall be provided.
 - 2) The name, address, and telephone number of the person to be contacted and authorized to act in the event of an emergency.
 - 3) The names and addresses of the record owners of all abutting property.
 - 4) A report from a qualified and licensed professional engineer that describes the tower height and design including a cross section and elevation.
 - 5) A written five-year plan for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs, as well as plans for further developments and coverage within the Town.
 - 6) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use.
 - 7) Vicinity Map showing the entire vicinity within a 2500 foot radius of the tower site, including the topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites, and areas designated by the Vermont Agency of Natural Resources as critical wildlife habitat or as known locations of endangered or threatened species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.
 - 8) Proposed plans of entire development indicating all improvements including landscaping, screening, power lines, storage and maintenance buildings, and roads.
 - 9) Elevations showing all facades and indicating all exterior materials and color of towers.
 - 10) Setback distances of all buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the Board) which shall meet the minimum setback requirements of the underlying zoning district. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum distance from the tower to any property line or occupied structure shall be no less than the height of the tower, including antennas and other vertical appurtenances.
- c) Before receiving a permit an applicant shall demonstrate, through certification by a qualified Radio Frequency (RF) engineer that the proposed facility will comply with all applicable Federal Communications Commission (FCC) rules governing RF radiation and interference. The Zoning Board may require post-construction monitoring to ensure compliance.
- d) Siting and design of communications facilities (including any support and maintenance structures, necessary access corridors, and utility lines) shall minimize impacts on natural, scenic, and aesthetic resources to the fullest extent possible. The Zoning Board is specifically authorized to place, among other conditions, restrictions on the height of a facility above existing roof lines and tree canopies. Lighting shall not be allowed unless

specifically required by the Federal Aviation Administration (FAA), and must be shielded from surrounding properties to the greatest extent possible.

- e) For each wireless telecommunications facility installed subject to these regulations, the owner of a facility shall annually, on January 15, file a declaration with the Town of Weathersfield's Administrative Officer certifying the continuing safe and FCC compliant operation of said facility, including the condition of the tower portion. Failure to file a declaration shall mean that the facility/tower is no longer in use and shall be considered discontinued or abandoned.
- f) In the event that the use of a tower or other equipment is discontinued or abandoned, the site shall be restored to its natural condition, or to the condition that existed prior to construction or installation, as appropriate, within 180 days of discontinuance; the Zoning Board may require an applicant to secure a bond ensuring removal and site rehabilitation.
- g) If feasible, wireless communications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing communications facilities, and utility poles and towers. An applicant for a new tower or support structure shall have the burden of demonstrating, to the satisfaction of the Zoning Board, that there are no existing structures on which it is feasible to locate. This demonstration shall include, at a minimum:
 - 1) A map showing other FCC-licensed wireless communications facilities within the town and within ten miles of the proposed site;
 - 2) A propagation study, showing why available structures cannot be used to attain the coverage necessary for the applicant to provide service to the town.

Article 5: Development Review

5.1 Application Submission Requirements

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application.

5.1.1 Permitted Uses

Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to approximate scale that depicts the following as appropriate to the proposed project:

- a) the dimensions of the lot, including existing property boundaries,
- b) the location, footprint and height of existing and proposed structures or additions,
- c) the location of existing and proposed accesses (curb cuts), driveways and parking areas,
- d) the location of existing and proposed easements and rights-of-way,
- e) existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
- f) the location of existing and proposed water and wastewater systems,
- g) a copy of an approved wastewater and potable water supply permit issued under 10
- h) V.S.A. Chapter 64, if needed for the project, and
- i) other such information as required by the Administrative Officer to determine conformance with these regulations.

5.1.2 Site Plan Review

Applications shall include the following:

- a) **Application Form:** Supplied by the Administrative Officer; signed by the owner of record and, in the case of a non-owner applicant, by the applicant;
- b) **Site Plan:** Consisting of one or more sheets, clearly and legibly drawn. Sheets shall be at a minimum 18 inches by 24 inches, or larger at the request of the Zoning Board of Adjustment, and must illustrate the following: (The degree of detail to be determined by the Zoning Board of Adjustment.)
 - 1) Name of project;
 - 2) Name and address of applicant and property owner;
 - 3) Name and address of person or firm who prepared Site Plan (if other than applicant);
 - 4) Date drawn and date of latest version (if any);
 - 5) North arrow and scale;
 - 6) Vicinity map showing the site within the Town and Zoning District;
 - 7) Boundaries, dimensions, and total area of the lot drawn to appropriate scale;
 - 8) Existing buildings, wells, highways, and publicly owned property, all within 1/8 mile of the property boundary;
 - 9) Existing and proposed contour lines (two foot minimum), existing wetlands, bodies of water, and other prominent physical section and elevation;
 - 10) Existing and proposed building footprints (with setbacks) located on the lot showing the location of all entrances and loading docks and building heights;
 - 11) Proposed vehicular and pedestrian circulation, parking, off street parking, and points of access to the public right-of-way;
 - 12) Landscaping plan showing quantity and type of plants to be used to provide screening and integration with the adjacent property and/or to enhance the appearance of the proposed development;
 - 13) Existing and proposed location of wells and septic systems, including connection to public facilities;
 - 14) Location of existing and proposed utility system;
 - 15) Location and type of all outside lighting;
 - 16) Where applicable, the location and size of water storage to be used for firefighting;
 - 17) Drainage and runoff plan;
 - 18) Location of critical wildlife habitat;
 - 19) Evidence of review of the 1992 Biological Natural Areas of Weathersfield, Vermont survey and map(prepared by Elizabeth H. Thompson) to identify any potential disturbances or threats; and
 - 20) Any other items as identified by the Zoning Board of Adjustment, including a traffic impact study in accordance with the Weathersfield Traffic Impact Study Guidelines (Refer to Appendix #2).

5.1.3 Conditional Use Review

Applications shall include the following:

- a) **Application Form:** Supplied by the Administrative Officer; signed by the owner of record and, in the case of a non-owner applicant, by the applicant;
- b) **Site Plan:** A site plan shall meet all of the requirements of Section 5.1.2(b).
- c) **Project Narrative:** A description of the proposed project shall be required as part of a

complete application. Also required is a narrative that clearly and succinctly explains how the project meets all applicable Conditional Use standards.

d) **Application Fees:** All applicable fees must be paid as part of a complete application.

5.1.4 PUD Review

Applications for PUDs must include the following, in addition to the information required for subdivisions:

- a) A brief summary of the project and how it meets the PUD standards in this section;
- b) A statement setting forth the nature of all proposed modifications, changes, or supplements required to the Zoning Bylaws by the proposal. Any such modification 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 required and these shall be noted or appended to the plat;
- c) A sound proposal for the financing and membership of the management organization which will maintain and operate the property in common ownership, such as community facilities, private roads, and/or open spaces; and,
- d) Additional information required by the Planning Commission to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in Article 6, Article 8 and below.

5.1.5 Flood Permit Review

Any application for development within the Flood Hazard Area District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] and Section ~~6-20~~5.7.7.

5.2 Permitted Use Review

See Section 6.2.

5.3 Site Plan Review

In accordance with 24 V.S.A. Sect. 4416, for any use other than a one- or two- family dwelling, and where indicated in the bylaws, the approval of site plans by the Zoning Board of Adjustment is required prior to the issuance of a zoning permit. In reviewing site plans, the Zoning Board of Adjustment may impose appropriate conditions and safeguards with respect to impact on character of the area, adequacy of traffic access, circulation and parking; landscaping and screening; compatibility with surrounding development; noise, vibration, erosion, and dust; and protection of natural resources. Consideration shall be given to traffic mobility and safety on affected streets, impacts on surrounding uses, and to desired land use patterns as encouraged by the Town Plan and the zoning bylaws of the affected district(s). A performance bond or other surety may be required as a condition for approval as authorized in 24 V.S.A. Sect. 4464. Conditions may include, but are not limited to, the following:

5.3.1 Compatibility with surrounding development

The Zoning Board of Adjustment may require the design and placement of structures to conform with the existing relationship of surrounding buildings to the street, the landscape, and to each other, including setback distances, physical orientation, construction materials, and architectural design. Design shall not be limited to any particular style or period, but should be consistent with established trends and patterns in the surrounding area.

5.3.2 Traffic access and circulation

Among other appropriate safeguards and conditions, the Zoning Board of Adjustment may:

- a) Require the installation of frontage roads, speed change lanes, or other highway design

elements on a street or adjacent to any access or connecting roads, if deemed necessary based on current or anticipated conditions.

- b) Limit the number and width of access drives; require consolidation of existing access points.
- c) Limit access to a property to a side street or secondary road in order to avoid access to heavily traveled streets and highways
- d) Require shared access and/or parking for adjoining properties or for future users of the remainder of a parcel; require the reservation of shared rights-of-way for future roads, parking areas, and pedestrian facilities; allow for consolidation or shared use of required parking spaces between uses.
- e) Require an applicant to commission a traffic impact study from a qualified consultant according to the Weathersfield Traffic Impact Study Guidelines (Refer to Appendix #2).
- f) Require the location or relocation of access points on one side of a street or highway directly across from existing access points on the opposite side.
- g) Prohibit the location of parking facilities between the front line of building(s) and the street.
- h) Accommodate existing or future facilities for non-vehicular travel.

5.3.3 Protection of natural resources

The Zoning Board of Adjustment may require that structures, parking facilities and other development be located so as to avoid impacts to surface waters, wetlands, wildlife habitat, agricultural land, important scenic resources, and significant natural and cultural features. These requirements may include modification of the minimum setback distances of the district. (Refer to Sect. 6.10.9 “1992 Biological Natural Areas of Weathersfield, Vermont”.)

5.3.4 Storm water management and drainage

Adequate provisions shall be made for the management of erosion, sedimentation and storm water runoff. For all projects undergoing Site Plan Review, except one- or two-family dwellings, appropriate storm water management measures shall be incorporated into the final site design to ensure that no additional storm water runoff is generated beyond the boundaries of the property and that existing drainage patterns are not altered in a manner which impacts neighboring properties, town highways or surface waters.

The Zoning Board of Adjustment may require a storm water management and erosion control plan prepared by a professional engineer licensed by the State of Vermont. The plan shall provide detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and post-construction). The Zoning Board of Adjustment may waive compliance with this provision in situations involving minimal disturbance of the site and/or limited areas of steep slope in which the development clearly poses a negligible risk to water quality, public facilities and roads, and nearby properties.

5.3.5 Landscaping and screening

Landscaping shall enhance the features and conditions unique to each site and shall include a combination of shade and street trees, shrubs, planting beds, well-kept grasses and ground covers. Landscaping is required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, and as otherwise necessary to provide adequate screening and without compromising vehicular and pedestrian safety by blocking visibility and site lines.

Landscaping plans shall emphasize the following:

- a) The preservation of existing ground cover and trees, especially those that are mature or determined to be of special horticultural or landscape value.

- b) The use of both deciduous and coniferous shade trees in available yard area, especially front and side yards and parking areas. Shade trees shall be placed to interrupt the facades of buildings, break-up expanses of parking, visually reduce the scale and bulk of large buildings, integrate the site with the surrounding landscape and to enhance environmental quality (e.g. wildlife habitat, soil stabilization, storm water retention, air quality, energy conservation).
- c) The use of street trees along well-traveled roads. Street trees should be planted where site conditions make such planting practical. Such trees shall be planted along the edge of the road right-of-way to create a canopy effect and shall be indigenous, deciduous species tolerant of road- salt, soil compaction and drought.

A three-year plan for all proposed landscaping shall be prepared and bonding or other surety may be required to ensure installation and maintenance. The Zoning Board of Adjustment may require a professional landscape architect to prepare a plan on a case-by-case basis

5.4 Conditional Use Review

~~Uses Subject to Development Review~~

For development requiring one or more approvals from an Appropriate Municipal Panel prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Administrative Officer.

Conditional Use Process:

Applicant applies to the Administrative Officer, who must refer the application because conditional use approval is required.

The applicant must then ask the Zoning Board of Adjustment to schedule a public hearing on the issue, and such hearing must be held within thirty (30) days of such request.

The Board of Adjustment shall act to approve or disapprove any such request for conditional use within 45 days after the date of the final public hearing and failure to so act within such period shall be deemed approved.

The Board will base its decision on whether the proposed use will result in an undue adverse effect on:

- a) the capacity of existing or planned community facilities;
- b) the character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located;
- c) ~~and/or~~ traffic on roads and highways in the vicinity;
- d) ordinances then in effect;
- e) utilization of renewable energy resources;
- f) as well as whether all applicable general and special provisions of these Bylaws would be met.

The Board may attach certain additional requirements or conditions to a permit. After such decision is made, the applicant shall have fourteen (14) days to present the conditional use approval and conditions to the Administrative Officer along with an application for a zoning permit. Appeals from a decision of the Board of Adjustment are filed in the Environmental Court.

A performance bond or other surety may be required by the Zoning Board of Adjustment for a conditional use permit. The amount, term and conditions of forfeiture shall be stated in the decision which requires the surety and shall be reflected in the surety contract. The surety contract shall be satisfactory to the Administrative Officer as to form, sufficiency and manner of execution, and shall be filed with the Town Clerk.

5.5 Combined Review

In accordance with 24 V.S.A. '4462, in cases where a proposed project will require more than one type of development review, the Planning Commission or Zoning Board of Adjustment may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. The Administrative Officer shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

Notice for a combined review hearing shall be made in accordance with 24 V.S.A. §4464(a)(1).

The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.

As applicable, the combined review process shall be conducted in the following order:

- a) Site Plan Review
- b) Access by right-of-way
- c) Requests for Waivers ~~or Variances~~
- d) Requests for Variances
- e) PUD Review
- f) Subdivision ~~Approval~~ Review (preliminary and final) ~~or PUD approval~~
- g) Conditional Use Review

All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate.

5.6 Planned Unit Development

~~Simultaneously with Subdivision Plan approval and~~ In accordance with the provisions set forth in Section 4417 of The Act, ~~and in a Zoning District where the~~ Planned Unit Developments (PUDs) are allowed to permit flexibility in the application of the Zoning Bylaws for the purposes of Section 4302 of The Act and in conformance with the Weathersfield Town Plan. is permitted, the Planning Commission may modify the regulations subject to the conditions set forth in this section. Residential PUDs, also known as Planned Residential Development (PRD), are considered as a type of PUD for the purposes of these Bylaws.

5.6.1 Purpose

~~The purpose of a Planned Unit Development is to encourage innovation and flexibility in design and development of land involving a mixture of land uses in such a manner as to promote the most appropriate use of land to further the objectives of the Town Plan. It is also designed to permit greater flexibility in the placement of buildings, use of open space, off street parking, circulation facilities and to preserve the natural and scenic qualities of the site and surrounding area.~~

- a) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.
- b) To implement the policies of the municipal plan, such as the provision of affordable housing.
- c) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.
- d) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities

and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.

- e) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.
- f) To provide for efficient use of public facilities and infrastructure.
- g) To encourage and preserve opportunities for energy-efficient development and redevelopment.

5.6.2 ~~Permitted Uses~~ Applicability

- a) The PUD provisions may be applied to any land development in any zoning district within the Town of Weathersfield at the request of the applicant.
- b) Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

5.6.3 ~~Application~~ PUD Review Procedures

- a) Complete applications for PUDs must include the information specified in Section 5.1.
- b) PUD applications are subject to approval by the Planning Commission in accordance with the requirements of Section 5.6 in these Bylaws.
- c) Applications for PUDs must be reviewed simultaneously with application for subdivision review in accordance with Weathersfield's Subdivision Regulations, as most recently amended.
- d) Approval granted under this section for a PUD that involves the development of one or more uses requiring approval under site plan review (Section 5.3) or conditional use review (Section 5.4) does not exempt the proposed development from both review processes, although applications for PUDs may be reviewed concurrently.

~~The Planning Commission may allow for greater density, or intensity, of development in certain sections of a parcel, but this increase in concentration will be offset by a decrease in concentration in another section, or at the Commission's discretion, a reservation of common open space by grant of easement or by covenant to the Town of Weathersfield. In no event shall the overall density or intensity of land use within the PUD be greater than that permitted if the land were subdivided into lots in conformance with the minimum lot area requirements of the Zoning District.~~

~~In addition to the Permitted and Conditional Uses already allowed by the Bylaws in the Village, Highway, Commercial, and Industrial Districts, the Planning Commission must find that the additional uses do not conflict with character of the area affected, pertinent sections of the Municipal Plan, other uses in the PUD, and do not substantially differ from the uses allowed in the Zoning District.~~

5.6.4 General Standards ~~for Review~~

In addition to the standards set forth in Weathersfield's Subdivision Regulations, the following general standards ~~shall~~ must be met in order for the Planning Commission to approve a PUD application:

- a) PUD is consistent with Town Plan.
- b) The density requirements do not exceed the number of units permitted if the land were subdivided in accordance with district regulations.

- c) All Site Plan Review requirements in Section ~~7-8~~5.3 have been met.
- d) The PUD is an appropriate and unified treatment for the proposed development.
- e) The development is designed so as to be compatible with the character of the area. Particular attention will focus on the aural and visual impacts.
- f) The development will not place an undue burden on municipal services.
- g) State and local standards for fire and safety regulations by local fire and police officials are in compliance.
- h) Adequate water supply and sewage disposal facilities are provided.

5.6.5 Standards for Residential PUDs

- a) The total number of dwelling units in any ~~planned~~ Residential PUDs ~~development shall~~ must not exceed 125% of the number of lots into which the parcel could be legally subdivided based upon minimum lot size requirements of these Bylaws.
- b) Only residential and residential accessory uses shall be permitted within a Residential PUD ~~PRD~~.
- ~~b) Within the Village district, up to six units per structure may be permitted; in all other districts, permitting PRDs, only single family detached units may be permitted.~~
- c) Of the land left open within the ~~PRD~~ Residential PUD for common usage or ownership, no more than 25% shall be developed for community facilities (excluding subsurface installations), access road, parking areas, or recreational structures.

5.6.6 Modification of Zoning Regulations

After a duly-warned public hearing (per Section 6.3) ~~upon public notice~~, simultaneously with subdivision approval ~~of the subdivision plat for the PUD~~, and subject to the standards and conditions set forth in this section, the Planning Commission may modify the zoning district regulations for the proposed PUD as to the following requirements only:

- a) Setbacks, including provision for zero lot lines;
- b) Height, Bulk and Spacing of Buildings;
- c) Type of Building, including a mix of residential and commercial uses in one building, a variety of residential structures (one, two, and multi-family structures).
- d) Location of buildings; and
- e) Size of lots.

Any modification of the Bylaws for the proposed PUD granted by the Planning Commission shall be noted on the subdivision plat.

5.6.7 Decisions

At the time of PUD approval, the Planning Commission shall include in its decision a clear indication of all approved modifications of development standards, and may include conditions related to the location, scale, density, intensity, overall design of future development within the PUD, and/or posting of performance bonds for the completion of public facilities such as roads and water and sewer systems.

5.6.8 Legal Requirements

- a) Preserved open space shall be dedicated, either in fee or through a conservation easement to the Town, a community association comprising all of the present and future owners of lots or dwellings in the project, or a non-profit land conservation organization. The Zoning Board of Adjustment shall approve such easement.
- b) Formation of a homeowners association or similar legal arrangement must be required as

a condition of approval for a PUD that includes privately-owned roads, common open space and/or common buildings, or infrastructure or facilities in order to ensure their ongoing maintenance. The obligations to maintain the common improvements must be clearly outlined in the property deeds of all affected owners. Specifically, each deed must have a clause stating the town is not responsible for maintenance or improvements of private roads or common land, buildings or infrastructure. Costs incurred by the town because of default on the part of the association or an owner shall be a lien on the property of the association or owner(s).

~~An applicant for PUD approval applies to the Administrative Officer, who in turn notifies the Planning Commission. The Commission has up to sixty days to hold a public hearing, and sixty after that to approve, approve with conditions, or disapprove the application based on Standards of Review in these Bylaws. Failure to act within sixty (60) days of the hearing shall be deemed approval. Prior to filing a formal application, the applicant is encouraged to meet with the Commission to discuss the project.~~

5.6.6 Planned Residential Development

~~In accordance with 24 V.S.A., Sect. 4407(3) the modification of certain provisions of these Bylaws by the Planning Commission is conditionally permitted in specified districts upon the Planning Commission Approval of a site plan showing alternative placement, height and spacing of structures and utilization of land area than would otherwise be permitted herein.~~

- ~~)- This authority will be exercised by the Planning Commission within the following limitations:~~
 - ~~0. The total number of dwelling units in any planned residential development shall not exceed 125% of the number of lots into which the parcel could be legally subdivided based upon minimum lot size requirements of these Bylaws.~~
 - ~~0. Only residential and residential accessory uses shall be permitted within a PRD.~~
 - ~~0. Within the Village district, up to six units per structure may be permitted; in all other districts, permitting PRDs, only single family detached units may be permitted.~~
 - ~~0. Of the land left open within the PRD for common usage or ownership, no more than 25% shall be developed for community facilities (excluding subsurface installations), access road, parking areas, or recreational structures.~~
- ~~)- The submission of a site plan to the Planning Commission shall be accompanied by:~~
 - ~~0. A statement setting forth the nature of all proposed modifications, changes, or supplements required to the Zoning Bylaws by the proposal; (any such modification 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 required and these shall be noted or appended to the plat).~~
 - ~~0. A sound proposal for the financing and membership of the management organization which will maintain and operate the property in common ownership, such as community facilities, private roads, and/or open spaces.~~
- ~~)- The procedure and time limits for conditional uses, as described in 24 V.S.A., Sect. 4407(2) and in Sect. 9.2.4 of these Bylaws, shall apply to applications for PRD use, except that in the case of a PRD, the Planning Commission shall perform those duties normally assigned to the Board of Adjustment for conditional uses. Conditions attached to the PRD permit, as deemed necessary by the Planning Commission, may include the posting of performance bonds for the completion of public facilities such as roads and water and sewer systems.~~

5.7 Flood Plains and Floodways

5.7.1 Statutory Authorization and Effect

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 §4414, there is hereby established a bylaw for areas at risk of flood damage in the Town of Weathersfield, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

5.7.2 Statement of Purpose

It is the purpose of this bylaw to:

- A. Implement the goals, policies, and recommendations in the municipal plan;
- B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
- C. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair fluvial geomorphic equilibrium, flood plain services, and ensures that cumulative development in the hazard zone does not adversely affect others;
- D. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753; the municipal hazard mitigation plan; and make the Town of Weathersfield, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

5.7.3 Other Provisions

A. Precedence of Bylaw

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

B. Validity and Severability

If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

C. Warning of Disclaimer of Liability

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Weathersfield, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

5.7.4 Lands to Which these Regulations Apply

A. Regulated Flood Hazard Areas

These regulations shall apply to the River Corridors and Special Flood Hazard Areas (hereafter called "hazard areas") in the Town of Weathersfield, Vermont as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

1. River Corridors:

- a) River Corridors as mapped and published by the Vermont Agency of Natural Resources, as most recently amended, are hereby adopted by reference.
- b) Where River Corridors are not mapped, the standards in 5.7.6 C shall apply to the area measured as fifty (50) feet from the top of the stream bank or the top of slope in steep valleys with no bank top.

[Note that stream buffer provisions also apply in accordance with Section 3.2.8.]

2. **Special Flood Hazard Areas** in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations.

B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits *have not* been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

C. Interpretation

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall *constitute proof*.
2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall *constitute proof*.

5.7.5 Development Review in Hazard Areas

A. Permit

A permit is required from the Administrative Officer for all development in all areas defined in Section 5.7.4 as indicated below. Development that requires conditional use approval, non-conforming use approval, or a variance from the Zoning Board of Adjustment (ZBA) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section 5.7.5 and 5.7.6. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B. Permitted Use Review

For the purposes of review under these regulations, the following development activities in the River Corridor and/or Special Flood Hazard area where outside of the floodway, and meeting the Development Standards in Section 5.7.6, require only an administrative permit from the ZA:

<u>Special Flood Hazard Areas:</u>	<u>River Corridors:</u>
<u>(1) Non-substantial improvements to existing buildings;</u>	<u>(1) At-grade parking for existing buildings</u>
<u>(2) Small accessory structures;</u>	<u>(2) Small accessory structures;</u>
<u>(3) New or replacement fuel storage tanks;</u>	<u>(3) Channel management activities; and,</u>
<u>(4) New or replacement building utilities;</u>	<u>(4) New or replacement bridges and culverts.</u>

<u>(5) New or replacement bridges and culverts;</u>	
<u>(6) At-grade parking for existing buildings; and,</u>	
<u>(7) Recreational vehicles, provided they are fully licensed and ready for highway use.</u>	

C. Prohibited Development in Special Flood Hazard Area and River Corridors

<u>Special Flood Hazard Areas:</u>	<u>River Corridors:</u>
<u>(1) Junk yards or outdoor storage;</u>	<u>(1) Junk yards or outdoor storage;</u>
<u>(2) New manufactured home parks; and,</u>	<u>(2) New manufactured home parks;</u>
<u>(3) New fill/piers except as necessary to elevate structures to the required elevation.</u>	<u>(3) New fill/piers except as necessary to elevate structures to the required elevation;</u>
<u>(4) New development within the Floodway except as allowed in Section 5.7.6(B).</u>	<u>(4) New residential or non-residential structures (including the placement of manufactured homes), except as allowed under Section 5.7.6(C)(3); and,</u>
	<u>(5) New encroachments, except for floodplain restoration projects; channel management activities; health and safety measures; public utilities; and minor improvements to existing structures or relating to bridges, culverts, roads.</u>

D. Conditional Use Review

Conditional use review and approval by the ZBA is required prior to the issuance of a permit by the ZA for the following proposed development:

<u>Special Flood Hazard Areas:</u>	<u>River Corridors:</u>
<u>(1) New buildings;</u>	<u>(1) New residential or non-residential structures (including the placement of manufactured homes) as allowed for under Section 5.7.6(C)(3);</u>
<u>(2) Substantial improvement of existing buildings;</u>	<u>(2) Any increase in footprint to existing structures;</u>
<u>(3) Non-substantial improvement to existing buildings within a floodway;</u>	<u>(3) New fill/piers necessary to elevate structures to the required elevation;</u>
<u>(4) Development in a floodway;</u>	<u>(4) New or replacement water supply or septic systems;</u>
<u>(5) Recreational vehicles that are to be used as single-family dwellings;</u>	<u>(5) Grading, excavating or fill;</u>
<u>(6) Any increase in footprint to existing structures;</u>	<u>(6) Rebuilding an existing structure; and,</u>

<u>(7) New or replacement water supply or septic systems;</u>	<u>(7) Recreation facilities in accordance with Section 5.7.6(C).</u>
<u>(8) Grading, excavating or fill;</u>	
<u>(9) Rebuilding after substantial damage;</u>	
<u>(10) Roadway improvements;</u>	
<u>(11) Subdivisions;</u>	
<u>(12) Channel management; and,</u>	
<u>(13) All other development as defined in Article 7 that is not allowed under permitted use review or exempted under Section ____.</u>	

E. Exempted Activities

The following are exempt from regulation under Section 5.7 of this bylaw:

1. Insignificant activities and/or repairs as defined in Article 7;
2. Maintenance of existing roads and existing stormwater drainage systems;
3. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices;
4. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices;
5. Facilities owned and operated by the State of Vermont in accordance with 24 V.S.A. §4413;
6. Public utility power generating plants and transmission facilities that are regulated under 30 V.S.A. §248.
7. Improvements to an existing structure – located within a River Corridor, but not within the Special Flood Hazard Area – that does not involve an increase in the existing footprint.

F. Variances

Variances may be granted in writing by the ZBA only in accordance with all the criteria in 24 V.S.A. § 4469, and 44 CFR Section 60.6, after a public hearing noticed as described in Section VIII.

In addition:

1. A variance for development within the River Corridors may be allowed if, based on a review by VT ANR, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights or velocities, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

G. Nonconforming Structures and Uses

In addition to meeting the nonconformity provisions in Section 3.4 of these bylaws, the ZBA may,

after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section 5.7.6 of this bylaw;
2. A nonconforming structure within the Special Flood Hazard Area that is substantially damaged or destroyed may be reconstructed in place only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. For structures within the SFHA, the lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. A nonconforming structure within the River Corridor is subject to the provisions of Section 5.7.6(C)(3);
4. Nonconforming uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months (Sec. 3.4.3 specifies 3 years); and
5. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

5.7.6 Development Standards

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence, but all applicable standards apply. For example, a property that is located within both the River Corridor and Special Flood Hazard Area must avoid encroachment into the river corridor in accordance with Section 5.7.6(C), and the structure must also be elevated or flood-proofed and meet all other applicable flood hazard standards in accordance with Section 5.7.6(A).

A. Special Flood Hazard Area

1. All development shall be:
 - a. Reasonably safe from flooding;
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
 - c. Constructed with materials resistant to flood damage;
 - d. Constructed by methods and practices that minimize flood damage;
 - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - f. Adequately drained to reduce exposure to flood hazards;
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00

- foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.
3. New, substantially improved or replacement primary structures in the special flood hazard area must not increase base flood elevations or flood velocities. Such development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 0.1 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer; or,
- a. the proposal provides compensatory storage for floodwater (in the same reach and at elevations up to one foot above the base flood elevation) to offset the impacts of the proposal. A volumetric analysis and supporting data must be provided by the applicant and certified by a registered professional engineer; or,
 - b. The volumetric analysis will be waived for replacement or relocated primary structures where the proposal indicates no increase in the structure's footprint; or for new structures proposing a lowest floor elevation of at least two feet above the base flood elevation, an open foundation design, and no new fill.
4. New, substantially improved, rebuilt or relocated structures in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;
5. New or substantially-improved non-residential structures shall:
- a. Meet the standards in 5.7.6(A)(4); or,
 - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation 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 effects of buoyancy; A permit for flood proofing shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
6. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
7. Fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding, shall
- a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above 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.
7. Recreational vehicles must be registered and ready for highway use;
8. A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the

structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in 5.7.6(A)(6) above.

9. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
12. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.
13. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
14. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.
15. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.
16. Minor above-ground improvements outside of the floodway, such as poles or fences that minimally displace or divert floodwaters, do not require compensatory storage.

B. Floodway Areas

1. New encroachments within the regulatory floodway, except for minor improvements to existing structures or relating to bridges, culverts, roads, stabilization projects, access to water, public utilities or health and safety measures, are prohibited.
2. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
 - a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b) Not increase flood velocities; and
 - c) Not increase flood or erosion risk to surrounding properties, facilities, or structures.
3. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
4. For any proposed encroachment within the regulatory floodway where hydrologic and hydraulic analyses are required, the applicant should provide a FEMA Conditional Letter of Map Revision (CLOMR) as proof to demonstrate that the proposed activity, if completed as proposed, will not result in any increase in flood levels (0.00') during the occurrence of the base flood.

C. River Corridors

1. All development in River Corridors is subject to the following standards:
 - a. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage;
 - b. Development shall not increase the potential of materials being swept onto other lands

- or into the stream and causing damage to other properties from fluvial erosion; and,
- c. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
 2. Except as provided for in Section 5.7.5 and Section 5.7.6(C)(3), new development shall not be allowed within the river corridor.
 3. The following types of development are allowable within the River Corridor subject to the applicable standards:
 - a. The replacement of structures within a comparable footprint of legally existing structures or immediately adjacent to an existing structure, provided that the replacement structure is no closer to the river than the structure that is being removed.
 - b. Redevelopment and infill development within State-Designated Village Centers is subject to conditional use review by the ZBA, and shall meet the performance standards in subsection d below provided that the distance between the redevelopment or infill development and the river or stream is no less than the shortest distance between immediately adjacent existing above ground development and such river or stream.
 - c. Development within or adjacent to areas of existing development is subject to conditional use review by the ZBA, and shall meet the performance standards in subsection d below provided that the proposed development will not cause or contribute to fluvial erosion hazards.
 - d. One of the following performance standards must be met for all developments under Sections 5.7.6(C)(3) (b) and (c):

1) In-Fill Between Existing Development:

Development must be located no closer to the the channel than the average of the adjacent existing primary structures, within a gap that is no more than 300 feet, or 50 feet from top of bank, whichever is greater (see Figure 1).

Appendix A of the Vermont DEC Flood Hazard and River Corridor Procedures shall be used as guidance to meet this performance standard; or,

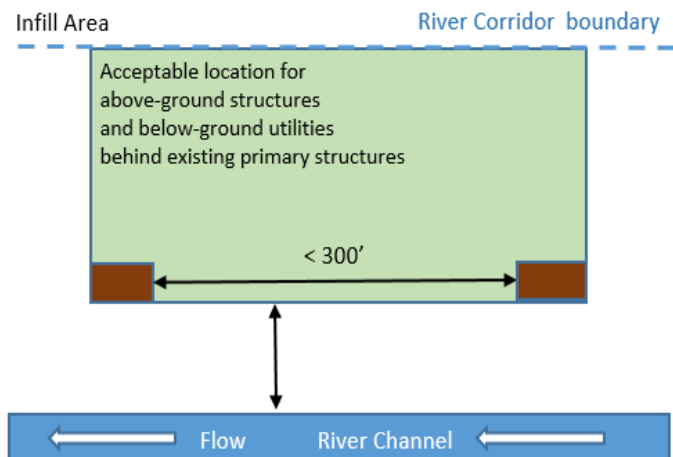


Figure 1: In-fill Development Standard

2) Down-River Shadow:

New development that is proposed adjacent to existing structures shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank; below-ground utilities may be placed within the same shadow dimensions of an existing below-ground system (see Figure 2). Appendix B of the Vermont DEC Flood Hazard and River Corridor Procedures shall be used as guidance to meet this performance standard.

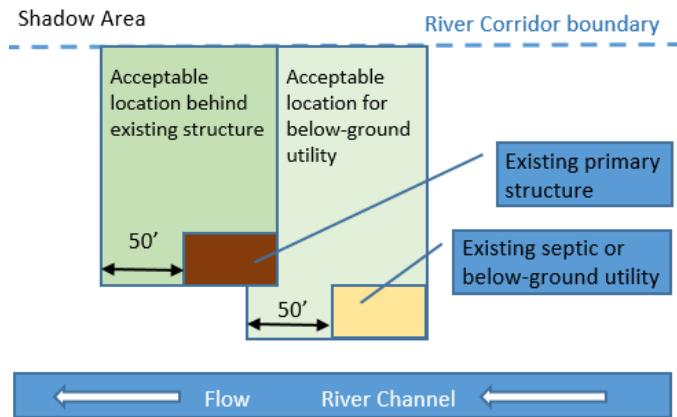


Figure 2: Shadow Area Development Standard

- e. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.
 - f. Additions to existing structures shall not decrease the distance between the existing primary building and the top of bank.
 - g. Any improvements to existing buildings or the associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank.
 - h. Public recreation facilities that represent a minor investment, such as soccer fields, snowmobile trails, hiking or mountain bicycling trails, or multi-use paths, as long as they meet the standards in subsection (C)(1) above. Recreational-related structures such as public bathrooms, stadiums, concession stands and similar buildings must meet the same standards for structures.
4. Bridge, culvert, roadway and utility crossings, and channel management projects are allowed as authorized by a Stream Alteration Permit from the Agency of Natural Resources. A copy of the Stream Alteration Permit shall be provided as part of a complete application in order to demonstrate that the project meets the applicable standards.

5.7.7 Administration

A. Application Submission Requirements

Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, special flood hazard areas, floodways, river corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin;

B. Referrals

1. Upon receipt of a complete application for new construction, a substantial improvement or development in the floodway, the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Board should consider comments from the NFIP Coordinator at ANR.

C. Decisions

The ZBA shall consider comments from the NFIP Coordinator at ANR. The ZBA may recess the proceedings on any application pending submission of additional information.

D. Records

The Administrative Officer shall properly file and maintain a record of:

1. All permits issued in areas covered by this bylaw;
2. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or flood proofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. All flood proofing and other certifications required under this regulation;
4. All determinations related to Substantial Damage and Substantial Improvement; and,
5. All decisions of the ZBA (including variances and violations) with the supporting findings of fact, conclusions and conditions.

5.7.8 Certificate of Occupancy

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area or River Corridors until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Occupancy cannot be issued, notice will be sent to the owner and copied to the lender.

5.7.9 Enforcement and Penalties

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA Chapter 117 § 4451, § 4452. A copy of the notice of violation will be mailed the State NFIP

Coordinator.

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

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

~~To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4424, there is hereby established these Flood Hazard Area Zoning Regulations for areas of special flood hazard in the Town of Weathersfield, Vermont.~~

~~Under these regulations, all uses and structures are allowed in the areas of special flood hazard subject to the following:~~

- ~~)- They are permitted within the zone in which the property is located; and~~
- ~~)- They conform to the requirements of this section; and~~
- ~~)- A permit for the use and/or structure is obtained in accordance with this Sect. 6.20.~~

5.7.1 Purpose

~~It is the purpose of these regulations to:~~

- ~~)- Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and~~
- ~~)- Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and~~
- ~~)- Manage all flood hazard areas designated pursuant to 10 V.S.A. ' 753; and~~
- ~~)- Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.~~

5.7.2 Lands to Which These Regulations Apply

~~These regulations shall apply to all areas in the Town of Weathersfield, Vermont identified as areas of special flood hazard, also referred to as Special Flood Hazard Areas (SFHA), in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.~~

~~The Flood Insurance Study and maps are on file in the Weathersfield Town Offices.~~

5.7.3 Administration

- ~~)- Designation of the Administrative Officer for These Flood Hazard Regulations. The Select board of the Town of Weathersfield hereby appoints the Administrative Officer to administer and implement the provisions of these regulations.~~
- ~~)- Duties and Responsibilities of the Administrative Officer: The Administrative Officer is hereby authorized and directed to enforce the provisions of this ordinance. The Administrative Officer is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.~~

~~**The Duties:** The duties of the Administrative Officer shall include, but not be limited to:~~

- ~~0. Review all development permits to assure that the permit requirements of this bylaw~~

have been satisfied;

- ~~0. Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. Require permit applicant to obtain a Permit Review Sheet from the Agency of Natural Resources and attach it to the permit application. (See Section 6.20.3(b))~~
- ~~0. Notify adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.~~
- ~~0. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.~~
- ~~0. Where base flood elevation (BFE) data in relation to mean sea level are available per Section 6.20.1(d) from the Flood Insurance Rate Map (FIRM) or other available data, verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, and verify that actual elevation of the lowest floor is in compliance with Section 6.20.6~~
- ~~0. When no elevation data is available as provided in Section 6.20.1(d), in AO Zones and A Zones without elevations, verify and record the elevation of the lowest floor of the proposed structure in relation to highest adjacent grade and verify that the elevation of the lowest floor exceeds by one foot the elevation determined pursuant to Section 6.20.1(b) 10., below.~~
- ~~0. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 6.20.6, except as provided in 6.20.6(o).~~
- ~~0. Review certified plans and specifications for compliance.~~
- ~~0. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (determination of the horizontal limits only, not vertical) the Administrative Officer shall make the necessary interpretation. The person contesting the location of the boundary may appeal the interpretation to the Board of Adjustment.~~
- ~~0. When base flood elevation data or floodway data have not been provided in accordance with Section 6.20.1(d) then the Administrative Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as provided in Section 6.20.1(d)(2), in order to administer the provisions of Section 6.20.6.~~
- ~~0. When an application for a permit for development in a SFHA is received by the Administrative Officer, the Administrative Officer shall submit a copy of the application and supporting information to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424(2)(D). A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.~~
- ~~0. Provide information, testimony, or other evidence, as needed, during variance request hearings.~~
- ~~0. When damage occurs to a building or buildings, the following actions shall be conducted:~~

- ~~a. Determine whether damaged structures are located within the Special Flood Hazard Area;~~
- ~~a. Conduct damage assessments for those damaged structures located in the SFHA; and~~
- ~~a. Make a reasonable attempt to notify owner(s) of damaged structure(s) of the requirement to obtain a zoning permit prior to repair, rehabilitation, or reconstruction.~~

~~The responsibilities: Record Keeping~~

- ~~0. The Administrative Officer shall maintain a record of:~~
- ~~0. All zoning permits issued for development in areas of special flood hazard;~~
- ~~0. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) in relation to mean sea level, or where base flood elevation data is not available, in relation to the highest adjacent grade, of the lowest floor, including basement, of all new or substantially improved buildings;~~
- ~~0. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) in relation to mean sea level to which buildings have been flood-proofed;~~
- ~~0. All flood-proofing certifications required under this regulation; and~~
- ~~0. All variance actions per Section 6.20.9(b)(6), including justification for their issuance.~~

~~g) Development Permit Required~~

~~Zoning permits are required for all proposed new construction, substantial improvements, and other development, including the placement of manufactured homes, within all lands to which these flood hazard regulations apply. The procedure for obtaining such a permit is as follows:~~

- ~~0. All zoning permit applications, accompanied by a site plan, shall be submitted to the Administrative Officer, on forms provided by said Officer. Upon application, the Administrative Officer shall determine whether or not the proposed development is located within the area of special flood hazard, based on Sect. 6.20.1 (d) of these regulations. Appeals with respect to a boundary interpretation shall be made by filing a notice with the Zoning Board of Adjustment within 15 days of the decision.~~
- ~~0. If the proposed use is to be located in an area of special flood hazard and

 - ~~— meets the requirements of Sect. 6.20.2 (a), the Administrative Officer shall issue a zoning permit.~~
 - ~~— fails to meet the requirements of Sect. 6.20.2 (a), the Administrative Officer shall deny the application and refer the applicant to the Zoning Board of Adjustment.~~~~

~~e) Base Flood Elevations and Floodway Limits~~

- ~~0. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, referred to in Section 6.20(d), shall be used to administer and enforce these regulations.~~
- ~~0. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, the Administrative Officer shall obtain and reasonably utilize base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, including data developed pursuant to Section 6.20.6(o) or (p), to administer and enforce these regulations. "Available" base flood elevations and floodway data means existing and readily available from State or Federal agencies or from data previously obtained pursuant to Section 6.20.6(o) or (p).~~

The reference for this action is to be FEMA 265 "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base Flood Elevation", dated July 1995.

- 0. ~~In special hazard areas with base flood elevations (Zones AE and A1-B-A30) but without floodways, no encroachments, including fill material or structures, shall be permitted unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification must be supported by technical data that conforms to standard hydraulic engineering principles.~~

~~)- Minimize Flood Damage~~

~~All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.~~

5.7.4 Permitted and Conditional Uses

~~)- Permitted Uses~~

~~Subject to application for and issuance of a zoning permit by the Administrative Officer, the following open space uses shall be permitted within an area of special flood hazard to the extent that they are not prohibited by any other ordinance and provided that they do not require or the application does not propose the erection of structures or storage of materials or equipment, fill or the borrowing of fill from outside the flood hazard area, re-contour of the land (except for that resulting from accepted agricultural practices, such as plowing, forming dirt planting beds, or disking), or channel modification or relocation; and do not obstruct flood flows, do not result in any increase in flood levels during the occurrence of the base flood, effect the water carrying capacity of the regulatory flood way or channel, or increase offsite flood damage potential.~~

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

~~The Administrative Officer shall comply with 6.20.1(b)(11).~~

~~)- Conditional Use Permit Required~~

~~Any development that includes fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures or storage of equipment or material prescribed by the Town of Weathersfield Zoning Ordinance, that is proposed to occur within an area of special flood hazard, is permitted only upon the granting of a conditional use permit by the Board of Adjustment.~~

5.7.5 Application Procedures for Conditional Use in a Flood Hazard Area

- ~~)- All conditional use permit applications for development in the SFHA shall be heard as a conditional use by the Board of Adjustment. Those hearings shall be scheduled, noticed and heard using the same procedures as other conditional uses under these Zoning Regulations.~~
- ~~)- Submission Requirements. Applications for Flood Hazard Review shall include a map~~

~~drawn to scale showing:~~

- ~~0. The dimensions of the lot;~~
- ~~0. The location of existing and proposed structures, streams, roads and other pertinent features;~~
- ~~0. The land contours at one (1) foot intervals, as well as a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;~~
- ~~0. The base flood elevation data for subdivisions and other proposed development which contains at least 50 lots or 5 acres (whichever is the smaller);~~
- ~~0. The elevation of the lowest floor, including basement, either
 - ~~— in relation to mean sea level (where base flood elevation data in relation to mean sea level is available); or~~
 - ~~— in relation to the elevation determined pursuant to Section 6.20.1 (d)(2); or~~
 - ~~— if neither (i) or (ii) apply for lack of determined elevations, in relation to highest adjacent grade of all new or substantially improved structures and notations as to whether or not such structures contain a basement;~~~~
- ~~0. The relationship of the above to the stream bank and, based upon the best information available (including Federal Insurance Administration data, if available), the elevation and limits of the SFHA.~~
- ~~— If any portion of the proposed development is within a designated SFHA, the application must show that the development standards in Section 6.20.6 are met, including the more stringent floodway standards for development in the floodway.~~
- ~~— Where flood proofing is proposed, the application must show the elevation (in relation to mean sea level) to which the building(s) will be made flood proof; and review (of structural design, specifications, and plans) and certification by a VT licensed registered professional engineer that the design and proposed method of construction of buildings to be made flood proof are in accordance with accepted standards of practice for meeting the flood proofing criteria of Sect. 6.20.6 of these regulations.~~
- ~~— All permits required for the proposed development by municipal ordinance and/or regulations.~~
- ~~— The applicant shall contact a permit specialist at ANR and request the specialist to complete a permit review for the project. The permit review sheet, which informs the applicant of all governmental agencies from which permit approval for the proposed development is required by Federal or State law, shall be filed as a required attachment to the Town permit application.~~
- ~~— The applicant shall provide such other information as deemed necessary by the Zoning Board of Adjustment for determining the suitability of the site for the proposed development.~~

5.7.6 Review Considerations used by the Board of Adjustment for Flood Hazard Conditional Use

The following considerations are used by the Board of Adjustment for the review of each application submitted for Flood Hazard Conditional Use and findings shall be made on each:

- ~~a) The comments from the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section, if available;~~
- ~~a) The availability of alternative locations, not subject to flooding, for the proposed use;~~

- ~~a) The susceptibility of the proposed improvement/development to flood damages, and the effect of such damages on the individual owner(s);~~
- ~~a) The reliability and safety of access to the property for ordinary and emergency vehicles during times of flooding;~~
- ~~a) The potential for damage to the property caused by erosion;~~
- ~~a) The danger that material may be swept onto other lands or downstream, resulting in damages to other persons and/or properties;~~
- ~~a) Where applicable, the proposed water supply and sewage treatment systems and the ability of these systems to prevent contamination or unsanitary conditions in the event of flooding;~~
- ~~a) The Board of Adjustment shall review the application and assure that all permits required for the proposed development by municipal law have been received by the applicant.~~
- ~~a) If the Board of Adjustment approves the proposed project, among other conditions, the Board of Adjustment shall, in its decision, make the approval contingent on the applicant obtaining all permits required by Federal or State agencies, as shown on the project review sheet, and~~
 - ~~0. The permit issued by the Administrative Officer after the Board of Adjustment approval shall contain, among other conditions, a statement that the validity of the permit is contingent on the applicant obtaining all permits required by Federal or State agencies, as shown on the project review sheet; and~~
 - ~~0. Applicant is required to obtain the legally required permits from the entity indicated on the permit review sheet, or, if it is determined by that agency that a permit is not required, a letter so stating from the agency, and as received provide copies of the permit or letter to the Administrative Officer for the applicant's file.~~
- ~~a) The development standards in Sect. 6.19.6 are met or exceeded; and~~
- ~~a) Such other factors that are deemed relevant to the purposes of this bylaw.~~

5.7.7 The Board of Adjustment may grant a Conditional Use Permit for Development provided

- ~~) The development standards in Sect. 6.20.6 are met or exceeded, and~~
- ~~) The pertinent elements set forth in 6.20.4 are considered and found to be met or found to be met with the conditions set by the Board of Adjustment.~~

5.7.8 Development Standards within Areas of Special Flood Hazard

- ~~) All land development shall be reasonably safe from flooding and designed to:

 - ~~0. minimize flood damage to the proposed development and to public facilities and utilities, and~~
 - ~~0. provide adequate drainage paths around structures, to guide floodwater around and away from structures, in order to reduce exposure to flood hazards.~~~~
- ~~) Structures shall be:

 - ~~0. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,~~
 - ~~0. be constructed with materials resistant to flood damage,~~
 - ~~0. be constructed by methods and practices that minimize flood damage, and~~
 - ~~0. 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.

- ~~) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.~~
- ~~) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.~~
- ~~) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~
- ~~) New and replacement manufactured homes shall be elevated on properly compacted fill so that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.~~
- ~~) Any development within the floodway, except development permitted under Sect. 6.20.2(a) of these Bylaws, is prohibited unless a VT licensed registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.~~
- ~~) Until a regulatory floodway is designated, in Zones A1-30 and AE the requirements of Section 6.20.1(d)(3) shall be met.~~
- ~~) The lowest habitable floor and the basement, of all new residential buildings shall be at or above one foot above the base flood elevation. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, access to a building, or storage in an area other than a basement area is not considered a building's lowest floor, but must meet the standards in 6.20.6(m).~~
- ~~) Existing buildings, to be substantially improved for residential purposes, shall be modified or elevated to meet the requirements of Sect. 6.20.6(i).~~
- ~~) New construction or substantial improvement of nonresidential structures shall have the lowest floor, including the basement, at or above one foot above the base flood elevation, or shall be made flood proof to one foot or more above the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy, all certified by a VT licensed registered professional engineer. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, access to a building, or storage in an area other than a basement area is not considered as the building's lowest floor. (Permits will not be issued for buildings proposed for flood proofing until the requirements of Sect. 6.20.3(b)(3) are met.)~~
- ~~) Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway. These facilities may be permitted outside of the floodway, provided the area is filled to at least one foot above the base flood elevation. Underground fuel storage tanks are prohibited.~~
- ~~) All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - ~~0. 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.~~~~
- ~~) Recreational Vehicles placed on sites with special flood hazard areas shall either~~

- ~~1. be on the site for fewer than 180 consecutive days,~~
- ~~1. be fully licensed and ready for highway use or,~~
- ~~1. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in this 6.20.6.~~
- ~~-) Residential and Nonresidential Development in SFHA where BFE or floodway data is not available~~

~~When base flood elevation data or floodway data is not available in accordance with Section 6.20(d) and Section 6.20.1(d)(2), in Special Flood Hazard Areas without Base Flood Elevation Data, new construction or substantial improvements of residential structures, and new construction of nonresidential structures, shall be elevated; and substantially improved nonresidential development shall be elevated or flood-proofed to elevations adopted/established by the community. The~~

~~Administrator Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 6.20 of these regulations. The reference for this action is to be FEMA 265 "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base Flood Elevation", dated July 1995.~~

- ~~-) Subdivisions~~
 - ~~0. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.~~
 - ~~0. Subdivisions (including manufactured home parks) shall be designed to assure:~~
 - ~~-. such proposals minimize flood damage within the flood-prone area,~~
 - ~~-. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and~~
 - ~~-. adequate drainage is provided to reduce exposure to flood hazards.~~
- ~~-) Accessory Structures. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building meets the following requirements:~~
 - ~~0. The structure must only be used for parking or storage,~~
 - ~~0. The structure must have the required openings to allow floodwaters in and out;~~
 - ~~0. The structure must be constructed using flood resistant materials below the Base Flood Elevation,~~
 - ~~0. The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and~~
 - ~~0. all building utility equipment including electrical and heating must be elevated or flood-proofed.~~

5.7.9 Occupancy Permit Required

~~Occupancy permits are required for all proposed new construction, substantial improvements, and other development, including the placement of manufactured homes, within all lands to which these flood hazard regulations apply. The procedure for obtaining such a permit is as follows:~~

- ~~-) After completion of all improvements for which a zoning permit was issued, the applicant shall request and must obtain an occupancy permit from the Administrative Officer prior to the use of any improvements constructed on the lot. In addition to the application form for an occupancy permit (supplied by the Administrative Officer), the applicant shall submit a final site plan of the property showing all improvements as they were constructed. For~~

~~Conditional Use permits within a flood hazard area, said plan shall clearly indicate the location of each improvement and the soil stabilization measures as they were applied. The plan shall also show all final contour lines at intervals not to exceed five feet and the true elevations of all structures as referenced from known elevation benchmarks, and show that the elevations in relation to base flood elevation of the lowest floor or height of flood-proofing.~~

- ~~) The Administrative Officer shall compare this final site plan with the site plan for which the zoning permit was issued to determine conformance with these regulations and all conditions of approval. If any questions exist as to the accuracy of the information shown on the final site plan, the Administrative Officer may conduct an on-site inspection to address the concerns. The Administrative Officer shall issue an occupancy permit for the development, once compliance with the zoning regulations has been verified.~~

5.7.10 Variances

~~Variances shall be granted by the Board of Adjustment only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.~~

~~) **Matters to be considered in Variance Procedures.**~~

~~In passing upon such applications, in addition to the requirements of said § 4469, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of these regulations, and:~~

- ~~0. The danger that materials may be swept onto other lands to the injury of others;~~
- ~~0. The danger of life and property due to flooding or erosion damage;~~
- ~~0. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- ~~0. The importance of the services provided by the proposed facility to the community;~~
- ~~0. The necessity to the facility of a waterfront location, where applicable;~~
- ~~0. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~0. The compatibility of the proposed use with existing and anticipated development;~~
- ~~0. The relationship of the proposed use to the comprehensive plan and floodplain;~~
- ~~0. Management program for that area; the safety of access to the property in times of flood or ordinary and emergency vehicles;~~
- ~~0. The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,~~
- ~~0. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~
- ~~0. Upon consideration of factors listed above, and the purpose of these regulations, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.~~

~~) **Procedures for Variance Hearings**~~

~~In addition to the requirements of 24 VSA § 4469, in considering variances to these flood hazard area regulations, the Board of Adjustment shall follow the following procedures, which include the procedures for the granting of variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations:~~

- ~~0. No Impact Certification within the Floodway. Variances shall not be issued within any~~

designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result. A No-Impact Certification within the Floodway from a Vermont registered professional engineer is required to satisfy this prohibition set forth in 44 CFR, Section 60.6(a)(1).

- ~~0. Variances may be issued for new construction or substantial improvement constructed on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures set forth in 10 B. (3), (4), (5) and (6) herein.~~
- ~~0. Variances shall only be issued when there is:
 - ~~— A showing of good and sufficient cause;~~
 - ~~— A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,~~
 - ~~— A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;~~~~
- ~~0. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;~~
- ~~0. Any applicant to whom a variance is granted shall be give written notice over the signature of a community official that:
 - ~~— The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage, and,~~
 - ~~— Such construction below the base flood level increases risks to life and property.~~A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Town Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.~~
- ~~0. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's annual or biennial report submission to the Federal Emergency Management Agency or State NFIP Coordinator upon request.~~
- ~~0. Historic Structures. Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.~~
- ~~0. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally-dependent use provided that:
 - ~~— the criteria of paragraphs 6.20.8(b)(1) through (4) of this section, above, are met, and~~
 - ~~— the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.~~~~

5.7.11 Warning of Disclaimer of Liability

These regulations do not imply that land outside of the areas of special flood hazard or land use 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 Weathersfield or any town official or employee thereof for any flood damages that result from reliance on these regulations or any administrative

decision lawfully made thereunder.

5.7.12 Enforcement and Penalties

~~It shall be the duty of the Administrative Officer to enforce the provisions of these regulations. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. §4451 or 24 V.S.A. §4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.~~

~~If the structure is still noncompliant after the opportunity to cure has passed, the Floodplain Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.~~

5.7.13 Precedence of Ordinance

~~The provisions of these regulations shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where these regulations impose a greater restriction, the provisions of these regulations shall take precedence.~~

Article 6: Administration and Enforcement

6.1 Municipal Appointments

6.1.1 Administrative Officer

Municipal appointments include all appointments necessary to administer and enforce the bylaws including the Administrative Officer (Zoning Administrator), Planning Commission, and Zoning Board of Adjustment responsible for the review of development.

The Select board shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the Act [§4448]. The Legislative Body may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.

An acting Administrative Officer may be appointed by the Legislative Body, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Administrative Officer in the Administrative Officer's absence. In the event an acting Administrative Officer is appointed, the Legislative Body shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

The Administrative Officer shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other

related tasks as is necessary and appropriate.

In addition, the Administrative Officer shall coordinate the municipality's development review programs. If other municipal permits or approvals are required, the Administrative Officer shall provide the applicant with necessary forms. The Administrative Officer may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

6.1.2 Planning Commission

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the Legislative Body in accordance with the Act [§4321B 4323]. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Legislative Body.

The Commission shall adopt rules of procedure deemed necessary and appropriate for the performance of its functions as required under the Act [§4323(b)] and Vermont's Open Meeting Laws. In accordance with the Act, the Commission shall have the following duties in association with these regulations:

- a) to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;
- b) to prepare and approve written reports on any proposed amendment to these regulations as required by the Act [§4441(c)]; and
- c) to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Legislative Body [§4441(d)].

The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law. The Commission shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- a) applications for rights-of-way or easements for development lacking frontage (Section 6.7)
- b) applications for subdivision approval (Section 6.1),
- c) applications for planned residential development (PRD) (Section 7.3), and
- d) applications for planned unit development (PUD) (Section 7.21).

6.1.3 Board of Adjustment

The Board of Adjustment shall consist of not less than three (3) nor more than nine (9) members appointed by the Legislative Body for specified terms in accordance with the Act [§4460(b) and (c)]. The Legislative Body also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Board of Adjustment may be removed for cause by the Legislative Body upon written charges and after public hearing.

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act [§4461(a)] and Vermont's Open Meeting Law.

The Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- a) appeals from any decision, act or failure to act by the Administrative Officer (Section 9.3), and any associated variance requests (Section 9.4),
- b) applications for site plan approval (Section 7.8),

- c) applications for conditional use approval (Section 9.2.4).

6.1.4 Advisory Commissions

A Conservation Commission Advisory Commission of not less than three (3) members shall be appointed by the Legislative Body in accordance with the Act [§4433(1)]. The Advisory Commission may be composed of professional and lay members with expertise in related fields, a majority of whom shall reside in the municipality. The Commission shall adopt rules of procedure as it deems necessary and appropriate for the performance of its functions as required under the Act and Vermont's Open Meeting Laws. Records of Commission transactions shall be filed with the Municipal Clerk as public records.

6.2 Permit Requirements

6.2.1 Applicability

~~Development, Land Use, and Structures~~

No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Weathersfield until a zoning permit has been issued by the Administrative Officer, as provided for in the Act [§§4448, 4449]. ~~No land development shall take place, nor any change in the use of land shall take place, until a zoning permit has been issued and has become effective,~~ assuring that the proposed land development or change in use conforms to all applicable regulations of the zoning district in which it is located.

No new structural development shall take place until a zoning permit has been issued and has become effective; assuring that the proposed structural use conforms to the applicable regulations of the zoning district in which it is located.

No structural change leading to a change in the use of the land or the structure shall take place until a zoning permit has been issued and has become effective assuring that such change conforms to all applicable regulations of the zoning district in which it is located.

~~No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Weathersfield until a zoning permit has been issued by the Administrative Officer, as provided for in the Act [§§4448, 4449].~~

Two types of land development that require a zoning permit are:

- a) **Permitted Uses:** Permits for permitted uses are issued by the Administrative Officer
- b) **Conditional Uses:** Permits for conditional uses are issued by the Zoning Board of Adjustment. Additionally, some land uses require site plan approval from the Planning Commission.

6.2.2 Exemptions

No zoning permit shall be required for the following activities:

- a) ~~Accepted~~ Required Agricultural Practices (AAPsRAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act [§4413(d)] and Section 6. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAPsRAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.
- b) Accepted ~~management~~ Silvicultural Practices (AMPsASPs) for ~~silviculture~~ (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act [§4413(d)].
- c) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.

- d) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.
- e) Subdivisions of land that require subdivision approval under Section 6.1.
- f) Normal maintenance and repair of an existing structure which do not result in a change of the footprint or a change of use.
- g) Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use.
- h) Exterior alterations to structures which are not located within designated design review districts and which do not result in any change to the footprint or height of the structure or a change in use.
- i) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than four (4) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.
- j) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under Section 7.10.
- k) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
- l) Minor Structures (*Amended April 10, 2012*)
 - 1) Any new, single-story, non-residential structure of 150 square feet or less;
 - 2) said structure must be accessory to an existing primary structure on the same lot as the proposed minor structure;
 - 3) 150 total square feet of such structures are allowed per acre of lot size up to a maximum of 500 square feet of total structure area. (Lots that are less than one acre in size are allowed a single 150 sq. ft. structure.);
 - 4) No single structure may be greater than 150 square feet;
 - 5) Applicant must notify the Zoning Administrator in writing of the intent to build such structure(s) by providing such information as is required by the Zoning Administrator;

~~5) Such structures must be set back a minimum of 10 feet from all property lines.~~

~~n)m~~ _____ Garage sales, yard sales, auctions, or similar home-based activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.

~~o)n~~ _____ **Agricultural Structures:** Pursuant to 24 V.S.A. §4413(d) the following are exempt from local permitting requirements:

- 1. farm structures (excluding dwellings);
- 2. ~~accepted~~ required agricultural practices; and,
- 3. accepted silvicultural practices.

However, farmers intending to erect a farm structure, as part of a farming operation as defined by Section 6001(22) of Title 10, must:

- 1. notify the municipality of the intent to build a farm structure, and

2. abide by setbacks contained within the zoning bylaws, unless they provide an approval of lesser setbacks by the Commissioner of Agriculture, Food and Markets.

The notification 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.

Lastly, the municipality may report violations of ~~Accepted~~ **Required** Agricultural Practices or Accepted Silvicultural Practices to the appropriate state authorities.

~~o)~~ **Residential Care and Group Homes:** A group home, to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A. §4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. A residential care home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. §4501, shall be reviewed as a multi-family dwelling and shall be subject to conditional use and site plan review.

~~p)~~ Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.

~~g)~~ Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (p) of this subsection, clotheslines, or other energy devices based on renewable resources.

~~r)~~ **Home-Based Occupations:** A home-based occupation shall be considered a permitted use in all districts where a residential structure is a permitted or conditional use. No zoning permit is required for a home-based occupation as long as the use does not exceed following conditions:

1. Placed within an existing residence;
2. Employs only those who reside at the private residence;
3. Placed entirely within the existing private residence;
4. Generates a maximum of 20 average daily vehicle trips (defined as double the traffic generated by a private residence);
5. Does not have displays, storage, lights, heavy commercial vehicles, or any other exterior evidence of a home occupation that is viewable from the public right-of-way or by abutting landowners;
6. Does not generate noise, vibration, odor, glare, or other nuisances outside the residential or accessory outbuilding;
7. May display one non-illuminated, non-reflective building or free standing mounted sign, a maximum of three square feet in size; and,
8. Parking may include a 1-2 vehicle enlargement of an existing driveway. Separate on-site parking can be provided if fully screened from the public right-of-way or abutting properties.

6.2.3 Limitations

The following uses are allowed as conditional uses in the districts specified in Section 4.3. However, they may be regulated only with respect to location, Size, Height, Building Bulk, Yards, Courts, Setbacks, density of buildings, off-street parking, loading facilities, Traffic, Noise, Lighting, Landscaping, screening requirements, and only to the extent that regulations do not have the

effect of interfering with the intended functional use:

a) Public Facilities

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 10 V.S.A. §6606a.

b) Flood Permits for State-Owned and –Operated Institutions and Facilities

1. State-owned and –operated institutions and facilities are exempt from a permit issued under Section 5.6; however, such uses are subject to a flood permit issued by the Vermont Department of Environmental Conservation.

c) Except as necessary to ensure compliance with the National Flood Insurance Program, a bylaw under this chapter shall not regulate any of the following:

1. An ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet.
2. The following improvements associated with the construction or installation of a communications line:
 - a. The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.
 - b. The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

~~Public Utility Power Generating Plants & Transmission Facilities: In accordance with The Act §4413, no provision of these bylaws shall have the effect of regulating public utility power generating plants and transmission facilities regulated under 30 V.S.A. §248.~~

~~Silvicultural Practices In accordance with The Act §4413, no provision of these bylaws shall have the effect of regulating accepted silvicultural practices as those practices are defined by the commissioner of forests, parks and recreation under subsection 0121(f) and 1259(d) of Title 10 and §4810 of Title 6.~~

~~Hunting, Fishing, and Trapping: In accordance with The Act §4413, no provision of these bylaws shall have the effect of regulating hunting, fishing, trapping, and other activities specified under 24 V.S.A. §2295.~~

~~Agricultural Structures (See Section 6.10.8)~~

(Repealed March 9, 2011)

(Repealed June 11, 2012)

6.2.3 Issuance

A zoning permit shall be issued by the Administrative Officer only in accordance with the Act [§4449] and the following provisions:

- a) Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Appropriate Municipal Panel and/or state for consideration. In accordance with the Act [§§4448, 4449], if the Administrative Officer

fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

- b) No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Appropriate Municipal Panel or Legislative Body until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- c) If public notice has been issued by the Legislative Body for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw[4449(d)].
- d) A zoning permit shall include a statement of the time within which appeals may be taken under Section 9; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.
- e) The Administrative Officer, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.

6.2.4 Effective Date

No zoning permit shall take effect until the time for appeal under Section 9 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

6.2.5 Permit Notice Posting Requirement

Within three days following the issuance of a zoning permit, the Administrative Officer shall post a copy of the permit in the Town Clerk's office until the expiration of the appeal period. The applicant must also post a permit notice, on a form prescribed by the Town of Weathersfield within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.

6.2.6 Permit Expiration

Permits expire one year from the effective date if the permitted project has not been started and five years from the effective date if the project has been started but not completed, unless other longer times have been approved in the permit. Permits may be renewed, but such renewal shall take into account any subsequent adopted amendments to these Bylaws. Reactivation of a previously permitted use which has been discontinued for more than one year shall require the issuance of a new permit.

6.3 Public Hearings

6.3.1 Public Notice

In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review appeals of decisions of the Administrative Officer, variances, and final subdivision review. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- a) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- b) posting of the same information in three (3) or more public places within the municipality,

including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;

- c) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
- d) for hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

Public notice of all other types of development review hearings, including site plan review, shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:

- a) posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
- b) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the Appropriate Municipal Panel where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Board of Adjustment or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

6.3.2 Hearings

In accordance with the Act [§4461], all meetings and hearings of the Appropriate Municipal Panel(s), except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Appropriate Municipal Panel(s). The Appropriate Municipal Panel(s), in conjunction with any hearing under this bylaw, may:

- a) examine or caused to be examined any property, maps, books, or records bearing upon the matters concerned in that proceeding;
- b) require the attendance of any person having knowledge in the premises;
- c) take testimony and require proof material for its information; and
- d) administer oaths or take acknowledgment in respect of those matters.

In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth under Section 9.3.2 are met. The Appropriate Municipal Panel(s) shall keep a record of the name, address, and participation of each of these persons.

Any Advisory Committee recommendations shall be submitted in writing at or before the public hearing of the Appropriate Municipal Panel(s).

In accordance with the Act [§§4464(b), 4468], the Appropriate Municipal Panel(s) may recess a hearing on any application or appeal pending the submission of additional information, provided that the next hearing date and place is announced at the hearing.

6.3.3 Decisions

Any action or decision of an Appropriate Municipal Panel shall be taken by the concurrence of a

majority of the members of the Panel. In accordance with the Act [§4464(b)], the Appropriate Municipal Panel shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

- a) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section 9.

The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

- b) In rendering a decision in favor of the applicant, the Appropriate Municipal Panel may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:
 - 1. the submission of a three-year performance bond, escrow account, or other form of surety acceptable to the Legislative Body, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
 - 2. a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
- c) All decisions of an Appropriate Municipal Panel shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and Clerk as part of the public record of the municipality.

6.3.4 Recording Requirements

Within 30 days of the issuance of a municipal land use permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the land records of the municipality generally as provided in 24 V.S.A. §1154(c), and file a copy in the Municipal Office in a location where all municipal land use permits shall be kept, as required under the Act [§4449(c)]. The applicant may be charged for the cost of the recording fees.

For development within the Flood Hazard Area District, the Administrative Officer shall also maintain a record of: (Section 6.20)

- a) all permits issued for development in areas of special flood hazard;
- b) elevation certificates that show the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- c) the elevation, in relation to mean sea level, to which buildings have been flood proofed; all flood-proofing certifications required under this regulation; and
- d) all variance actions, including the justification for their issuance.

6.4 Deed Restrictions

Unless specifically excluded on the zoning permit, all deed restrictions required by the Zoning Board of Adjustment or by the Planning Commission as a condition to a development permitted under these Bylaws shall automatically become conditions of the zoning permit issued for such development.

All other deed restrictions remain enforceable by the parties involved, and are not affected by these Bylaws. However, compliance with deed restrictions is not a substitute for compliance with these Bylaws; all uses must comply with these Bylaws.

6.5 Other Town Regulations

Other provisions of these Bylaws notwithstanding, zoning permits shall be conditioned upon receipt of all other required Town permits. (Example: Town highway access permit.)

Initiation of construction under a zoning permit is prohibited unless and until a wastewater and potable water supply permit is issued under 10 V.S.A. Chapter 64.

6.6 Certificate of Conformance

A property owner or prospective property owner may request a certificate of conformance. This certificate shall be issued by the Administrative Officer and shall simply validate that the property and the road or right-of-way to it are either in conformance with these Bylaws or that the road or right-of-way is in conformance and the property is either a legal nonconforming use, nonconforming structure, or nonconforming lot due to its legitimate existence prior to the adoption of these Bylaws, and that the property transfer would not create any new nonconforming use, nonconforming structure, or nonconforming lot.

6.7 Certificate of Occupancy

For development of a commercial, industrial, semi-public, or planned residential nature, it shall be unlawful to use or occupy, or to permit the use or occupancy of any land or structure or part thereof created, erected, converted, or altered in its use or configuration prior to the issuance, by the Administrative Officer of a Certificate of Occupancy stating that the proposed use of the structure or land conforms to that which was originally authorized by the Zoning Permit.

The Administrative Officer may issue a conditional certificate of occupancy upon review and approval by the Planning Commission, to allow the applicant to use or occupy the structure or land when one or more conditions of the Zoning Permit remain incomplete. The Planning Commission shall require a performance bond or other surety to cover the cost of the requested improvements. The amount of the surety shall be set by the Planning Commission and in a form approved by the town attorney and filed with the town clerk.

The incomplete conditions shall be limited to items which cannot be completed due to weather conditions. A period of six (6) months shall be set forth in the surety, within which time the required improvements must be completed. Upon completion of the conditions, the Administrative Officer will authorize the release of the surety and issue a Certificate of Occupancy.

6.8 Appeals

6.8.1 Administrative Officer Actions

Any interested person as defined under the Act [§4465] may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Board of Adjustment or the Municipal Clerk if no Secretary has been elected, and by filing a copy of the notice with the Administrative Officer.

- a) The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under the Act [§4468]. The Board shall give public notice of the hearing under Section 9, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- b) The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant[§4470].

- c) In accordance with the Act [§4468], all appeal 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 state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
- d) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act [§4464(b)]. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality, in accordance with Section 9. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

6.8.2 Interested Persons

The definition of an interested person under the Act [§4465(b)] includes the following:

- a) a person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- b) the Town of Weathersfield or any adjoining municipality;
- c) a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, 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;
- d) any ten (10) voters or property owners within the municipality who, by signed petition to the Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
- e) any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

6.8.3 Notice of Appeal

(Amended April 10, 2012)

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:

- a) the name and address of the appellant,
- b) a brief description of the property with respect to which the appeal is taken,
- c) a reference to applicable provisions of these regulations,
- d) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations, and
- e) the alleged grounds why such relief is believed proper under the circumstances.

In the interest of fairness and expediency for all parties, neither the Zoning Administrator nor any party to the appeal shall be obligated to respond to any grounds for appeal not stated in writing in the notice of appeal unless requested to do so by the Zoning Board of Adjustment.

6.8.4 Appeals to Environmental Court

In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the Planning Commission or Zoning Board of Adjustment may appeal a decision rendered under Section 9, within 30 days of such decision, to the Vermont Environmental Court. Appeals to Environmental Court shall also meet the following requirements:

- a) Participation in a Panel proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- b) Within 30 days following the date of decision rendered by the Planning Commission or the Zoning Board of Adjustment, notice of the appeal shall be filed by certified mail with fees to the Environmental Court and mailing a copy to the Administrative Officer who shall supply a list of interested persons to the appellant within five working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the Court to intervene.

6.9 Waivers

6.9.1 Purpose

The intent of this section is to provide flexibility in the setback requirements for existing structures within the Village Zoning District in order to enable the continued viability of these structures while also maintaining the character of the area.

6.9.2 Allowable Waivers

- a) In accordance with 24. V.S.A. 4414(8), waivers of dimensional setbacks are limited to no greater than a 10% reduction of any required front, side and/or rear setbacks for legally existing primary structures within the Village Zoning District in order to accommodate:
 1. ADA accessibility improvements;
 2. Life safety improvements;
 3. Unheated, open-sided additions (e.g. decks, stairways, entryways, etc.);
 4. Building systems (e.g. air conditioning, generators); or,
 5. Renewable energy structures that could not be reasonably developed without a waiver.
- b) Waivers shall not be granted for any of the other requirements in the Zoning Bylaws including, but not limited to, surface water buffer and setback requirements in Section 3.2 and flood hazard area provisions in Section 5.6.

6.9.3 Review Procedures

Waiver requests are subject to approval by the Land Use Administrator in accordance with 24 V.S.A. §4464(c), appealable to the Zoning Board of Adjustment, and subject to all requirements of these Zoning Bylaws.

6.9.4 Criteria

All proposed development must meet the following criteria in order for a setback waiver to be granted:

- a) Granting a waiver shall not result in an unsafe condition of the lot or to the public.
- b) 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 the neighbors or public rights-of-way.
- c) The waiver requested shall not impair sight distances on or maintenance of public or

private roads or sidewalks.

- d) The proposed work or construction does not encroach into the required front, side or rear yard setbacks any more than necessary to accomplish the desired results.
- e) The proposed development is compatible in scale and design of structures and the overall existing development pattern of the surrounding area.
- f) The waiver resolves a practical difficulty in developing the property and allows reasonable use of the property;
- g) In the case of historic properties, the waiver is essential to the preservation and renovation of the historic building or the preservation of the historic pattern of land use of the surrounding area.

6.9.5 Decisions and Conditions of Approval

The Land Use Administrator shall make a decision on the request for a waiver by applying the facts presented in the application as it relates to the criteria listed herein. In approving a waiver request, the Land Use Administrator may require certain conditions to meet the stated objectives of the zoning district, reduce or eliminate impacts, or protect the interests of the surrounding properties, neighborhood or Town as a whole. These conditions may include, but need not be limited to, the following:

- a) Limiting the size of the structure;
- b) Land Use Administrator shall review requiring the mitigation of impacts to adjoining properties and/or uses, to public rights-of-way through building design (e.g. limiting window placement), layout, landscaping or screening;
- c) Reducing the encroachment into the required front, side or rear yard setbacks;
- d) Requiring that the project does not extend beyond an existing nonconforming structure unless needed to accomplish the intended goal;
- e) Reducing the waiver requested to ensure that the waiver represents the minimum waiver that will afford relief and will represent the least deviation possible from the zoning bylaws;
- f) Controlling the location and number of vehicular access points;
- g) Requiring site reclamation in the event the use of the renewable energy structure(s) is discontinued for a period of 24 months unless legal action prevents use of the structure. The site shall be restored to its natural condition or returned to the site conditions prior to construction of the facility;

6.10 Variances

6.10.1 Variance Criteria

The Board of Adjustment shall hear and decide requests for variances as required by the Act [§4469(a)] and appeal procedures under Section 9. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

- a) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
- b) Because of these physical circumstances or conditions, there is no possibility that the

property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;

- c) The unnecessary hardship has not been created by the appellant;
- d) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
- e) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

6.10.2 Variances for Renewable Energy Structures

Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act [§4469(b)], the Board may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

- a) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;
- b) The hardship was not created by the appellant;
- c) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
- d) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

6.10.3 Variances within the Flood Hazard Area

In addition to requirements under Section 6.20, variances for development within the Flood Hazard District shall be granted by the Board only:

- a) in accordance with the Act and the criteria for granting variances found in CFR Section 60.6 of the National Flood Insurance Program;
- b) upon determination that during the base flood discharge the variance will not result in increased flood levels; and
- c) upon determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- d) In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect.

6.11 Violations and Enforcement

6.11.1 Violations

The commencement or continuation of any land development or subdivision that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act [§§4451, 4452]. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Weathersfield, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

6.11.2 Notice of Violation

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act [§4451]. The notice of violation also shall be recorded in the land records of the municipality under Section 9.6.4. The notice shall state that a violation exists; that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

6.11.3 Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 9.6.4.

Article 7: Definitions

(amendments as noted)

For the purposes of these Bylaws, meanings for the following words and phrases shall be as defined below. All other words shall retain their dictionary meaning (Webster's Ninth New Collegiate Dictionary) unless such meanings run counter to the purposes and objectives of Weathersfield's Bylaws or Town Plan. The definitions of terms defined in Section 4303 of V.S.A. Title 24, Chapter 117, and not otherwise defined herein are made a part of these Bylaws.

A Zone: That portion of the SFHA subject to a one percent chance of being equaled or exceeded in any given year. In the A Zone the base floodplain is mapped by approximate methods, i.e. BFEs are not determined. This is often called unnumbered A Zone or approximate A Zone.

Abandoned Structure: *(Removed Effective 10/9/2012)*

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

1. The property has sufficient wastewater capacity.
2. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
3. Applicable setback and parking requirements specified in the bylaws are met.

Accessory Structure: ~~A structure which is customarily incidental and subordinate to the principal building, located on the same lot or on an adjoining lot under the same ownership. (Examples are garages and garden sheds.)~~ A structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

Accessory Use: A use customarily incidental and subordinate to the principal use of the land or

building. If there is a question whether the use is customary, determination shall be made by the Zoning Board of Adjustment.

Affordable Housing: Affordable housing means either of the following:

1. Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, 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 condominium association fees is not more than 30 percent of the household's gross annual income.
2. Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

Affordable Housing Development: A housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.

Agriculture Use: Land which is used for raising livestock, agricultural or forest products (includes farm structures and the storage of agricultural equipment); and, as an accessory use, the sale of agricultural products raised on the property.

Airport Uses: Fixed- and rotary-wing operations together with retail sales and service operations related to public, private, and general aviation, including aircraft sales, repair, and storage, commercial shipping and storage, restaurants, rental vehicles, and other uses designed to serve aviation passengers and industry.

Appropriate Municipal Panel: A planning commission, a board of adjustment or a legislative body performing development review

Appurtenant: Physically attached; sharing a common wall; or within an existing accessory structure such as a garage or barn.

~~**Area of Shallow Flooding:** A FEMA designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

~~**Area of Special Flood Hazard:** This term is synonymous in meaning with the phrase "Special Flood Hazard Area" for the purposes of these bylaws. The land in the flood plain within a community subjected to a one percent or greater chance of flooding within any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A is usually refined into Zones A, AO, AH, A1-30, AE or A99.~~

Athletic courts: Private, residential tennis court, basketball court or similar activities.

Average Grade: The average of the distance from the top of foundation to the ground measured at all foundation corners of a building or structure. (Added June 11, 2012)

Background Noise: Noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded 90% of the time (L90) in which the measurement is taken.

Bankfull Width (or Channel Width): The width of a stream channel when flowing at a bankfull

discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year: (commonly referred to as the “100-year flood”).

Base Flood Elevation (BFE): The elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface. ~~height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.~~

Basement: Any area of the building having its floor elevation subgrade (below ground level) on all sides.

Bed-and-Breakfast: A single family dwelling that provides sleeping accommodations for paying guests and tourists. May or may not provide meals in a central dining room. A bed-and-breakfast is limited to three bedrooms for paying guests.

BFE: See Base Flood Elevation.

Boarding House (tourist home): See Inn/small hotel.

Buffer: An undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

Building: A structure having a roof supported by columns and/or walls intended for the shelter or enclosure of persons, animals or chattel, excluding fences, and including a gas or liquid storage tank that is principally above ground.

Building or Structure Height: The distance from the average grade to the highest point on a building or structure. *(Added June 11, 2012)*

Car Wash: A retail establishment for self-service or attendant operated washing of motor vehicles and travel trailers.

Cemetery: Property used for the interment of the dead.

Channel: An area that contains continuously or periodic flowing water that is confined by banks and a streambed.

Common Plan of Development: Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

Contractor's Storage Yard: A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor.

Coverage: That percentage of the lot area that is covered by buildings.

Critical Facilities: Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station

Daytime Hours: Hours between 7:30 a.m. and 7:30 p.m., Monday through Saturday, and the hours between 10:00 a.m. and 7:30 p.m. on Sundays and holidays.

Decibel: (dB) A unit of measurement of the sound level.

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

Development in the areas of special flood hazard: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

District, Zoning District: A part of the territory of the Town of Weathersfield within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of these Bylaws.

Dwelling, Dwelling Unit: A building or part thereof, including a kitchen and bathroom, used as living quarters for a single individual or family (see definition of family).

Emitter: Source of noise.

Excessive Noise: Any sound, the intensity of which exceeds the standard set forth in Section 6.13.

Existing Small Lot: Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, is in existence on the date of enactment of any bylaw, and is too small to conform to the minimum lot size requirements for the zoning district in which it is located.

Existing manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Family: For the purposes of these Bylaws, a family shall consist of any group of two or more persons, either related or unrelated, residing in and sharing the rooms of an individual dwelling unit in the same structure (i.e., persons related by blood, marriage, or adoption; housemates; unrelated friends sharing expenses).

Family Child Care Home: A family child care home or facility is a day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this subdivision, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

1. these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
2. during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. §4902((3).

Family Child Care Facility: A state registered or licensed family child care facility serving ten or more children (at least six full-time and four part-time).

Farming: The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, equines, fish, or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; or the on-site production of fuel or power from agricultural products or wastes produced on the farm.

Farming structure: A structure or structures that are used by a person for agricultural production that meets one or more of the following:

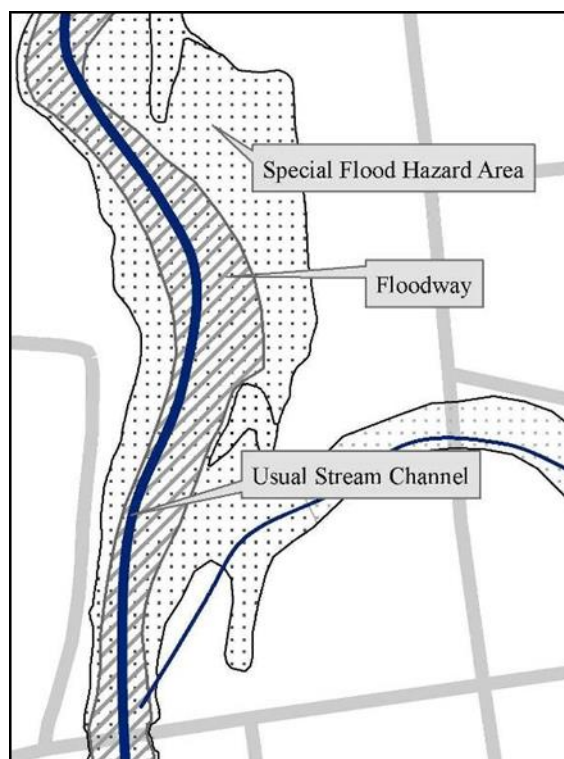
1. is used in connection with the sale of \$1,000 or more of agricultural products in a normal year; or
2. is used in connection with raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen
3. sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratis (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or
4. is used by a farmer filing with the Internal Revenue Service a 1040(F) income tax statement in at least one of the past two years; or
5. is on a farm with a business and farm management plan approved by the Secretary.

Fill: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

FIRM: see Flood Insurance Rate Map.

Flood:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.



Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM). ~~An official map of a community, on which the Federal Insurance Administrator has~~

~~delineated both the special hazard areas and the risk premium zones applicable to the community.~~

Flood Insurance Study (generic): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

~~**Flood Insurance Study (FIS):** The official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.~~

Floodplain or flood-prone area: Any land area susceptible to being inundated by water from any source (see definition of "flood").

Flood proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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 at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

Floodway, regulatory in Town of Weathersfield: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Fluvial Erosion: Erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

Fluvial Geomorphic Equilibrium: The width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading (down-cutting) the channel bed elevation. When a stream or river is in an equilibrium condition the stream power and erosive process is minimized reducing damage to public and private infrastructure, reducing nutrient loading, and allowing for bank stability and habitat diversity.

Frontage: The length of that portion of a lot which abuts a public road right-of-way or mean watermark of a public waterway. In the case of corner lots, it shall be that portion that has or is proposed to have access.

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities, that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Gasoline/Service Station: A retail establishment at which motor vehicles are serviced, especially with fuel, air, and water; also called a filling station. Includes the retail sale of motor vehicle fuel carried on as part of other commercial or industrial activities.

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

Guest House: An accessory residential structure with no kitchen (may or may not have bath facilities) used for the sole purpose of temporary housing for nonpaying guests.

Hazardous Materials: *(Expires 8/5/2012 as an interim definition; effective 7/9/2012 as a*

permanent definition) Those substances, materials, or agents in such quantity, state, and form as may constitute potential risk to the health and safety of the people and environment of the Town, and which may constitute a threat to property, including, without limitation, the following: explosives; radiative materials, etiologic agents, flammable materials, combustible materials, poisons, oxidizing or corrosive materials, and compressed gases. This shall also include any other materials listed as 'hazardous' by the Materials Transportation Bureau of the United States Department of Transportation, in Title 49 of the Code of Federal regulations, as amended, or those materials regulated pursuant to Title 10, Chapter 47, of the Vermont Statutes Annotated, or any other applicable Federal or State regulations. (*Expires August 5, 2012*)

Highway-Commercial: The use of a structure and/or lot for the following purposes:

1. motel or large hotel;
2. shopping plaza;
3. wholesale or retail sales;
4. drive-in theater;
5. restaurant;
6. drive-in food service;
7. drive-in bank;
8. lumber yard;
9. sales and service of automobiles, mobile homes, large boats or recreational vehicles;
10. dry cleaner;
11. bar; nightclub; or
12. any other purpose deemed by the Zoning Board of Adjustment to be similar in nature to those listed.

Historic Structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

~~**Home Industry:** Any industry or service type operation that is carried on within a residence or an outbuilding of a residence. Examples of Home Industries include: small manufacturing shops, antique shops, and small professional offices, others deemed similar in nature by the Zoning Board of Adjustment.~~

Home-Based Business: A professional, commercial, or light industrial activity that takes place on a residential property, is for gain by the resident(s), and where these activities are subordinate to (Level 1) or augment (Level 2) the residential use.

~~**Home-Based Occupation:** Any occupation that is conducted entirely within the living area of a residence, carried on only by members of the residing household, is clearly secondary to the use~~

~~of the residence as a dwelling, and does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. Examples of Home Occupations include: professional offices for doctors, lawyers, or realtors; watch repair businesses, weaving studios, home tutoring, small workshops, and others deemed similar in nature by the Zoning Board of Adjustment.~~ Employment activity that is carried on for gain by the resident and is clearly subordinate to the residential structure.

Impulse Noise: Noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

Indoor Recreational Facility: A commercial or public facility for the following indoor activities: bowling, table tennis, tennis, pool, roller and ice skating, swimming, customary gym activities, rifle/pistol/archery, others deemed similar in nature by the Zoning Board of Adjustment.

Industry: The use of a building or land for the manufacture, production, processing, assembly or storage of goods or commodities. Includes research, testing, and large offices (more than ten employees); and others deemed similar in nature by the Zoning Board of Adjustment.

Inn/Small hotel: A commercial establishment offering sleeping accommodations for paying guests. Meals may be offered in a central restaurant or dining room on the premises, but no cooking facilities are available to guests. The maximum number of guest rooms is eight. Tourist homes and boarding houses with four to eight rooms for guests are considered to be small hotels. (See also: Bed-and- Breakfast)

Insignificant Activities and/or Repairs:

1. Insignificant activities that involve the placement or erection of decorative or directional elements which do not result in new obstructions to flood flows or alter drainage or have the potential to be a substantial improvement. Insignificant activities may include mowing, planting a garden, adding soil amendments, installing a mail box for the delivery of US postal mail or newspaper, or erecting a flag pole. Insignificant activities will not result in new obstructions to flood flows or impair drainage or have the potential to be a substantial improvement; and/or,
2. Insignificant repairs that involve projects to fix or mend to a sound condition after decay or damage and the cost of which does not exceed \$500 or does not result in the replacement, alteration, addition or extension of an existing structure. Insignificant repairs will not result in new obstructions to flood flows or impair drainage or have the potential to be a substantial improvement.

Junkyard: A yard for the deposit, storage, or resale of any junk or discarded materials, machinery, or vehicles; whether or not in connection with any other commercial activity.

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

Letter of Map Amendment (LOMA): A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a licensed engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

Light Industry: Same as Industry, but limited to:

1. no more than 10 employees
2. buildings do not cover more than 10,000 square feet of land area;
3. production of noise, vibration, smoke, dust, heat, odor, glare or other disturbance shall not exceed what is characteristic of the District.

4. production of electrical interferences and line voltage variations must no create a nuisance.

Lot: A portion or parcel of land occupied or intended for occupancy by a use or a building.

Lot Size: The total area of land, excluding the road right-of-way, included within the property lines.

Lowest Floor: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3 ~~(See 6.19.6(i) and (m)).~~

Lumber Yard: An establishment for the retail or combined wholesale/retail sale of new lumber and/or other new building materials. For the purposes of these Bylaws, establishments engaged in the sale of other new building materials without the sale of new lumber are included.

Manufactured Home (or Mobile Home): A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level: For the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 and other data, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Medical Facility: For the purposes of these Bylaws, a medical facility shall include hospitals, including nurses' residential quarters; nursing homes; and homes for the elderly or incapacitated.

Minor Structure: *(Removed effective 10/9/2012; see section 9.2.2[12])*

Mobile Home: A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

1. transportable in one or more sections; and
2. at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
3. any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. §6201(1).

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, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. ' 6201(2).

Modular (or Prefabricated) Housing: A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Motel: A commercial lodging facility for transients, having a private outside entrance and one

suitable automobile parking space for each room or suite of rooms.

Multi-family Dwelling: A building containing three or more individual dwellings with separate cooking and toilet facilities for each dwelling.

Municipal Land Use Permit: Means any of the following whenever issued:

1. A zoning, subdivision, site plan, or building permit or approval, any of which relate to "land development" as defined in this section, that has received final approval from the applicable board, commission, or officer of the municipality.
2. A wastewater system permit issued under any municipal ordinance adopted pursuant to 24
3. V.S.A. chapter 102.
4. Final official minutes of a meeting that relate to a permit or approval described in (a) or (b) above that serve as the sole evidence of that permit or approval.
5. A certificate of occupancy, certificate of compliance, or similar certificate that relates to the permits or approvals described in (a) or (b) above, if the bylaws so require.
6. An amendment of any of the documents listed in (a) through (d) above.

New construction:

1. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
2. For floodplain management purposes, new construction means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Nightclub or Bar: An establishment whose major activity is the service of alcoholic beverages for consumption on the premises and which may or may not provide entertainment.

Nighttime Hours: The hours between 7:30 p.m. and 7:30 a.m., Sunday evening through Saturday morning, except that ANighttime Hours@ shall mean the hours between 7:30 p.m. Saturday and 10:00 on Sunday and 7:30 p.m. of the day preceding a recognized, national holiday and 10:00 a.m. on said holiday.

Noise Zone: The geographic area between emitter and receptor of noise.

Nonconforming Lots or Parcels: Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer.

Nonconforming Structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

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

including a use improperly authorized as a result of error by the administrative officer. 24 V.S.A. §4303(15)

Nonconformity: A nonconforming use, structure, lot or parcel.

Non-highway Commercial: The use of a structure and/or lot for the following purposes:

1. wholesaler,
2. fuel oil depot,
3. bottled gas depot,
4. coal depot,
5. lumber yard, and
6. other similar purposes as determined by the Zoning Board of Adjustment.

Non-Residential: Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

Outdoor Recreation Facility: A commercial or public facility for the following out-of-doors activities: customary playing fields and municipal park activities (baseball, soccer field, etc.); tennis, swimming, roller and ice skating, skiing, boating, fishing, horseback riding, golf, miniature golf, bicycling, or other similar activities as determined by the Zoning Board of Adjustment. Excludes tracks or trails for competitive and/or commercial use of motorized vehicles.

Person: Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the State or other legal entity of any kind.

Planned Residential Development (PRD): An area for strictly residential use, in which the design and development promotes the most appropriate use of the land, to facilitate the adequate and economic provision of streets and utilities, and to preserve open space. PRD's designated as single family contains only single family residential structures; those designated as multi-family contain one or more multi-family residential structures.

Planned Unit Development (PUD): One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

Pre-existing: In existence prior to the adoption date of the original Bylaws, March 5, 1974.

Premises: Any building, structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements owned or controlled by a person.

Public Water: Any community drinking water distribution system, whether publicly or privately owned.

Receptor: With the intent of confining decibel levels higher than allowed to the emitter's property, the receptor is any abutting property receiving noise.

Recreational Vehicle: A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regular High Water Mark: The lower limit of vegetation on the streambank. (Added November

22, 2011)

Renewable Energy Resources: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.

Residential Care Home: A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to nine or more residents unrelated to the home operator.

Residential, Single-Family: The use of a structure and/or lot to house a single individual or family (see definition for family).

Residential Structure: Any structure designed and constructed for human residence.

Residential, Multi-family: The use of a structure or lot to house three or more families (see definition for family) or individuals.

Residential, Two-Family: The use of a structure or lot to house two families (see definition for family). A legitimate home occupation is optional.

River Corridor: The land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 V.S.A. §1422, and for minimization of fluvial erosion hazards, as delineated by the Agency in accordance with the ANR River Corridor Protection Guide.

Rural Town: A town having, as at the date of the most recent United States census, a population of less than 2,500 persons, as evidenced by that census, or a town having 2,500 or more but less than 5,000 persons that has voted by Australian ballot to be considered a rural town.

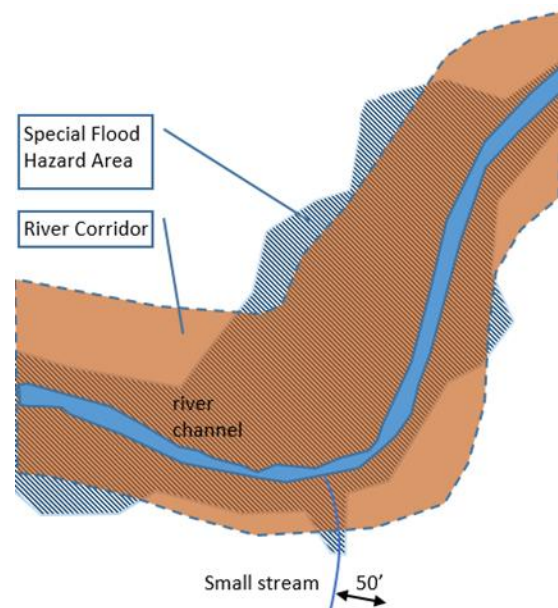
School: Includes public, parochial and private kindergarten through college or university and accessory uses such as dormitories, fraternities and sororities. Shall not include commercially operated schools of business, driving, dance, music, cosmetology, beauty, culture, or similar establishments.

Self-Storage Facility: A building or group of buildings and associated external areas containing separate, individual, and private storage spaces available for lease or rent for the purpose of inactive storage only and which are not accessory structures to residential uses. (Expires 8/5/2012 as an interim definition; effective 7/9/2012 as a permanent definition)

Semi-Public: Primarily nonprofit uses generally available to the public. Includes museums, assembly halls, concert halls, private clubs, YMCA, YWCA, and in these Bylaws, mortuaries; and other uses deemed similar by the ZBA.

Setback:

1. The shortest distance between the exterior of a building and the nearest adjacent boundary of the building lot, measured at right angles to said boundary.
2. Porches are included as part of the building, however, steps are not.
3. Setbacks shall be measured from the nearest boundary of the road right-of-way.
4. When the road or right-of-way measures less than fifty feet in width or is of unknown width, a right-of-way width of 50 feet shall be assumed.



5. The edge of the right-of-way shall be determined by measuring half of the right-of-way width from the center of the traveled portion of the road.
6. Structures added to existing buildings in order to provide access to the disabled or handicapped (i.e., ramps, special stairways, elevators, etc.) are not required to meet setback requirements.
7. New building construction that includes such devices shall meet said requirements.

Sign: Any device, logo, structure, illustration, emblem, building, or part thereof for visual communication that is placed in view of the general public for the purpose of directing public attention to any business, industry, profession, product, service, or entertainment.

Small Enterprise: ~~A small enterprise is a traditional use of a structure and/or lot and includes commercial and/or light industrial uses that are in keeping with the character of the Village or Hamlet District. Such uses may include:~~

- ~~0. light manufacturing and sales, such as a dress manufacturing and sales shop,~~
- ~~0. a small cabinet or furniture manufacturing shop with a show room,~~
- ~~0. an artist's studio and gallery, etc. Also included would be~~
- ~~0. a small retail store,~~
- ~~0. enclosed restaurant,~~
- ~~0. self-service laundry without dry cleaning,~~
- ~~0. small one-bay automotive repair shop,~~
- ~~0. small repair shop,~~
- ~~0. arts and crafts,~~
- ~~0. printer,~~
- ~~0. photographer,~~
- ~~0. small business office,~~
- ~~0. bank,~~
- ~~0. professional office,~~
- ~~0. clinic,~~
- ~~0. small hotel,~~
- ~~0. enclosed theater,~~
- ~~0. beauty shop, barber shop,~~
- ~~0. central telephone exchange, and~~
- ~~0. commercial schools (i.e., music, dance, driving, beauty, culture); and~~
- ~~0. other uses deemed similar by the ZBA.~~

Small Office: A space for ten or fewer employees with no deliveries and only employee parking allowed on-site.

Sound Level Meter: An instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels. The Sound Level Meter shall conform to the ANSI Specifications for Sound Level Meters S1.4-1971.

Special Flood Hazard Area (SFHA): The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard area". This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current flood insurance studies

and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps, and in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Start of Construction: For purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The "start of construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.~~Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless of whether that alteration affects the external dimensions of the building.~~

Stream: A perennial watercourse, or portion, segment or reach of a watercourse that, in the absence of abnormal, extended or severe drought, continuously conveys surface water flow. Human caused interruptions of flow; i.e. flow fluctuations associated with hydroelectric facility operations, or water withdrawals, shall not influence the determination. A perennial stream does not include the standing waters of wetlands, lakes, and ponds. Streams are indicated on the Vermont Hydrography Dataset viewable on the Vermont Natural Resources Atlas.~~A flow of water in a channel or bed, as a brook, rivulet, or small river. (Added November 22, 2011)~~

Structure: *(amended effective 10/9/2012)*

An assembly of materials for occupancy or use for more than six (6) months. Fences, gates, stone walls, landscape timbers, sculptures, memorial monuments, TV antennae, and satellite dishes are not structures.

For floodplain management purposes, "structure" shall mean a walled and roofed building,

including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

For flood insurance purposes, “structure” shall mean:

1. A building with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site;
2. A manufactured home, also known as a mobile home, which is built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation; or
3. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws, but does not include a recreational vehicle or a park trailer or other similar vehicle, or a gas or liquid storage tank.

Structural Development: *(Amended effective 10/9/2012)* The addition of a new structure to a parcel of land.

Subdivision: Either:

1. division of a parcel of land into two or more lots, plots, or sites; or
2. construction of a single structure containing two or more functional units, such as but not limited to: apartment buildings, condominiums, or shopping plazas, when such actions are taken for the purpose of sale, transfer of ownership, building development or property improvement.

The term subdivision includes re-subdivision.

Construction of a second principal structure on a lot shall be deemed a subdivision of the parcel.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. ~~reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. For the purposes of determining “substantial improvement” value and exceptions in (a) only and for no other purpose, the Administrative Officer is the local code enforcement official.~~

Telecommunications Facility: A tower or other support structure, including antennae that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast

signals.

Top of Bank: That vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope. See Figures 3 and 4 for representative illustrations for these terms.

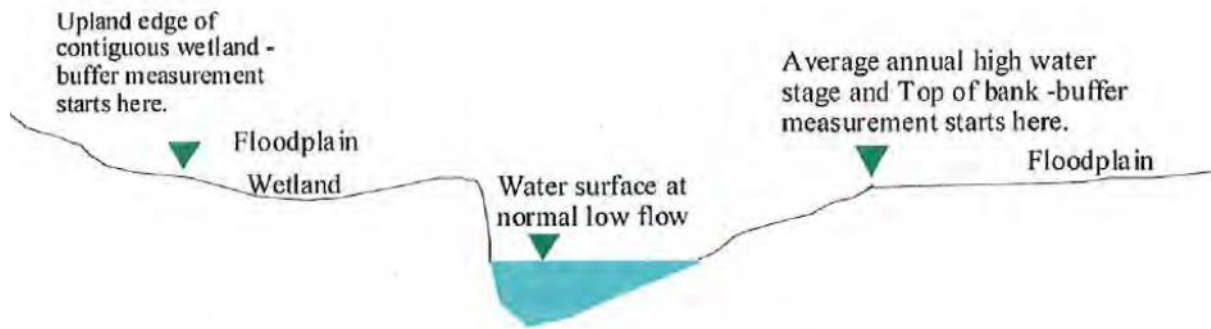


Figure 3: Illustration of "top of bank" (Source: Appendix C of the VT Riparian Buffer Guidelines)

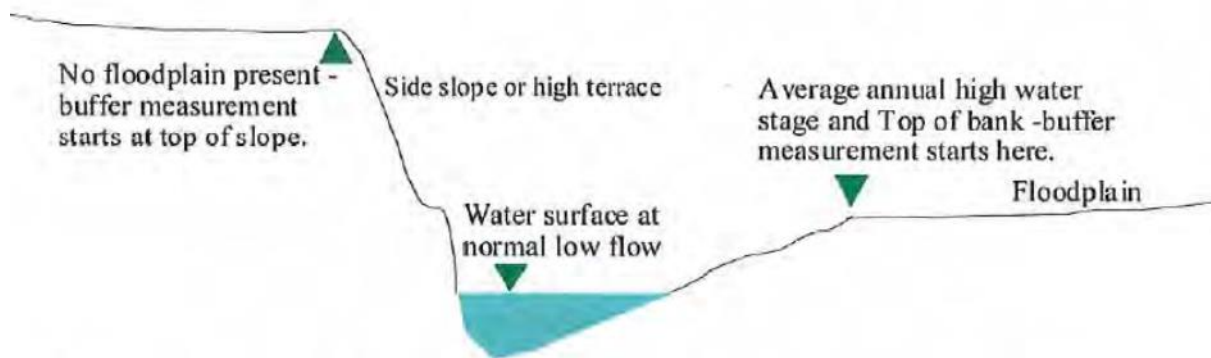


Figure 4: Illustration of "top of slope" (Source: Appendix C of the VT Riparian Buffer Guidelines)

Travel Trailer: Any vehicle used, or so constructed as to permit such use, as a conveyance on the public roads and duly licensed as such, which is constructed to permit occupancy as a dwelling or sleeping place for one or more persons. Includes motor homes, tent trailers, truck campers and any vehicle converted to provide temporary sleeping facilities other than a mobile home. This definition does not apply to commercial vehicles, such as 18 wheel trucks equipped with sleeping quarters, that are used to transport goods.

Use, Associated: A use customarily incidental to the principal use and on the same lot as the principal use.

Use, Conditional: A use permitted only by approval of the Board of Adjustment following a public hearing.

Use, Permitted: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Variance: A deviation from the strict application of the requirements of these Bylaws in the case of exceptional physical conditions. See 24 V.S.A., Section 4464 and 4469.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

Wetlands: Those areas of the state that are inundated by surface or groundwater with a

frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities.

Wireless Communications Facility: A tower, pole, antenna, guy wire, or related features or equipment intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmission/reception and the construction or improvement of a road, trail, building or structure incidental to a communications facility. Wireless Communication Facilities include Wireless Telecommunication Facilities. A speculative wireless telecommunications facility, that is, one built on speculation that the builder and operator will be able to lease to a service provider, is considered a wireless communications facility and does not come under the Telecommunications Act of 1996. Applications for such facilities, until a service provider is named and joins in the application, are subject to the review and regulations as a wireless communications facility and not as a wireless telecommunications facility.

Wireless Telecommunication Facility: A facility consisting of the structures, including the towers and antennas mounted on towers and buildings, equipment and site improvements involved in sending and receiving telecommunications or radio signals from a mobile communications source and transmitting those signals to a central switching computer which connects the mobile unit with land-based or other telephone lines.