

ALBURGH INTERIM ZONING REGULATIONS

ARTICLE I: ENACTMENT, INTENT, AMENDMENT AND EFFECTIVE DATE

Section 101: ENACTMENT

In accordance with the Vermont Planning and Development Act, hereinafter referred to as the “Act”, 24 V.S.A. Chapter 117, Subchapter 7, Section 4415, there are hereby established zoning regulations for the Town of Alburgh which are set forth in the text and map which constitute the regulations. These regulations shall be known and cited as the “Town of Alburgh Interim Zoning Regulations”.

Section 102: INTENT

It is the intent of these Interim Zoning Regulations to provide for orderly community growth in a manner that serves to implement the Town Plan. These bylaws are enacted as an interim measure while the municipality considers options for growth within the community during the current town plan update.

Section 103: APPLICATION OF REGULATIONS

The application of these Regulations is subject to § 4411 and §4413 of the Act. Except as hereinafter provided, no building or structure shall be erected, moved or extended and no land, building or structure or part thereof shall be occupied or subdivided or used unless in conformance with the regulations specified for the district in which it is located. Any use not expressly prohibited shall be deemed permitted.

Section 104: AMENDMENTS

These Regulations may be amended according to the requirements and procedures established in §4415.

Section 105: SEVERABILITY

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

Section 106: EFFECTIVE DATE

This regulation shall take effect upon adoption by the Select board and will remain in effect for two (2) years or until repealed by a vote of the Select board. This regulation may be extended or reenacted for a one year period beyond the initial two year period as authorized by §4415(a) of the Act.

ARTICLE II: ESTABLISHMENT OF DISTRICTS AND DISTRICT STANDARDS

Section 201 ZONING MAP AND INTERPRETATION OF BOUNDARIES

The official zoning map shall be located in the Office of the Town Clerk and shall be the final authority as to the current status of the land and water areas in the town. When the Administrative Officer cannot definitely determine the location of the district boundary by the scale and dimensions stated on the Zoning Map, he or she shall refer the matter to the Development Review Board, which shall interpret the location of the district

boundary with reference to the scale of the map and the purpose set forth in all relevant provisions of this bylaw.

ARTICLE III: DISTRICT OBJECTIVES AND LAND USE REGULATIONS

Section 301: ZONING DISTRICTS

The Town of Alburgh is divided into the following zoning districts: Village and Rural Lands.

Section 302: VILLAGE

Minimum Lot Size: 21,780 sq. feet

Minimum Frontage: 100' feet

Minimum Lot Depth: 100' feet

Minimum Front Yard: 60' feet from centerline of Right-of-Way

Minimum Side Yard: 15' feet

Minimum Rear Yard: 20' feet from property line, or from 98' above sea level if property is located on lakeshore.

Section 303: RURAL LANDS

Minimum Lot Size: 43,560 sq. feet

Minimum Frontage: 125' feet

Minimum Lot Depth: 150' feet

Minimum Front Yard: 75' feet from centerline of Right-of-Way

Minimum Side Yard: 15' feet

Minimum Rear Yard: 30' feet from property line, or from 98' above sea level if property is located on lakeshore.

Note: 43,560 sq. ft. = 1 acre

21,780 sq. ft. = ½ acre

Section 304: DISTRICT USES

All uses not expressly prohibited shall be deemed permitted within the zoning districts.

Prohibited Uses: Unlicensed junk yards

ARTICLE IV: MISCELLANEOUS REQUIREMENTS OF THE ACT

In accordance with §4412 of the Act, the following shall apply:

Section 401: EXISTING SMALL LOTS

Any small lot in existence of the effective date of any zoning regulation may be developed for the purposes permitted in the district in which it is located, even though not conforming to the minimum size requirement, if such lot is not less than one-eighth acre

with a minimum width or depth of forty feet. Frontage requirements for small lots not less than one-eighth acre with a minimum width or depth of forty feet shall be waived in situations where the minimum frontage required cannot be met due to lot size constraints. If necessary, setback may be adjusted on existing small lots upon approval by the Development Review Board.

Section 402: REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR PUBLIC WATERS

Land development may be permitted on lots which do not have frontage either on a public road or public waters, provided that access through a permanent easement or right-of-way has been approved by the Development Review Board in accordance with the Town of Alburgh Road Ordinance.

Section 403: CONSTRUCTION APPROVED PRIOR TO ADOPTION OF REGULATIONS

Nothing contained in this regulation shall require any change in plans or construction of a non-conforming structure or use for which a permit has been issued prior to the adoption of these regulations.

ARTICLE V: APPLICATION OF DISTRICT REGULATIONS

Section 501: NONCONFORMITIES

A nonconforming structure may be enlarged or expanded, upon approval of the Development Review Board, provided that the intended use of the structure is a permitted use under the applicable zoning and that the expansion does not increase the existing degree of non-compliance.

In the event that a nonconformity is destroyed by fire, explosion, act of God, by vandalism or public enemy, or if demolished by the owner for re-construction, the nonconformity may be reconstructed within the original building footprint, or in another location more in conformance with the bylaws . A report on reconstruction progress must be filed with the zoning administrator on an annual basis upon forms provided for that purpose until reconstruction of the original nonconformity is completed.

Section 502: SETBACK ENCROACHMENT

All structures whether attached to the principal structures or not, and whether open or enclosed, including porches, decks, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side or rear yard.

The following structures are exempt from this section:

Signs

Landscaping

Outbuildings no more than 120 square feet , providing that they are at least 5 feet from any property (boundary) line.

Fences require a zoning permit; they must be built of normal (universally accepted) fencing material and be capable of being maintained on both sides by the owner from the owner's side of the fence. Fences may not be placed directly on the property line, unless agreed to by both property owners (both sides of the fence).

Section 503: DISTRICT DIMENSIONAL REQUIREMENTS

No lot shall be created that does not conform to the minimum requirements of the district –unless granted a variance under Article VIII, Section 805 of these bylaws.

Section 504: YARDS ON CORNER LOTS

Any yard adjoining a street shall be considered a front yard for the purposes of these regulations.

ARTICLE VI ADMINISTRATION AND ENFORCEMENT

Section 601: ADMINISTRATIVE OFFICER

The Administrative Officer shall be appointed to administer the zoning regulations pursuant to §4442 of the Act. Said officer shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these regulations. An acting Administrative Officer may be appointed pursuant to §4448 of the Act.

Section 602: ZONING PERMITS

A) No division of a parcel of land into two or more parcels; nor construction, reconstruction, exterior structural alteration, relocation or enlargement of any building or other structure; may be commenced without a permit issued by the Administrative Officer. No zoning permit may be issued by the Administrative Officer unless in conformance with these regulations.

B) Application for zoning permits shall be made to the Administrative Officer on forms provided for that purpose.

C) Prior to the issuance of any zoning permits, the Administrative Officer shall first determine that the subject of the application is in conformance with these regulations. No such permit shall be issued unless an application, fee, plot plan and any other approvals of the Development Review Board required by this regulation have been properly obtained and are submitted in conjunction with the application. The Administrative Officer shall within 30 days of the submission of this application date and approval, either issue or deny the zoning permit or refer the application to the Development Review Board. If the zoning permit is denied or referred, the Administrator shall so notify the

applicant in writing, stating the reasons for the action taken. If the zoning permit is approved, all activities authorized by its issuance shall be completed within one year of its date of issue, or the zoning permit shall become null and void and application to complete any activities shall be required.

D) In the issuance of zoning permits, the Administrative Officer shall comply with all provisions of §4449 of the Act.

E) No zoning permit issued pursuant to §4449 of the Act shall take effect until the 15 day time period for appeals as per §4465 of the Act has passed, or in the event that the notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

F) Prior to commencing permitted activities under the issued zoning permit, the permit holder will post a copy of the permit in a manner that makes it visible to passers-by within view of the public right-of-way most nearly adjacent to the subject parcel.

Section 603: PENALTIES

Any violation of these regulations after the effective date thereof shall be punished as provided in §4451 and 4452 of the Act.

Section 604: VARIANCES

Appeals to the Development Review Board in which a variance from the provisions of this Interim Bylaw is sought shall be conducted in accordance with §4469 of the Act.

Section 605: DEVELOPMENT REVIEW BOARD

A) The Development Review Board shall consist of five(5) members appointed by the Legislative Body for specified terms in accordance with the Act [§4460 9b 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 Development Review Board may be removed for cause by the Legislative Body upon written charges and after a public hearing.

B) 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:

- applications for rights-of-way or easements for development lacking frontage (Section 402);
- applications for subdivision approval (Section 602)
- approval of the expansion or extension of a nonconformity (Section 501)
- adjudication of zoning district boundary disputes (Section 201)
- Appeals from any decision, act or failure to act by the Administrative Officer (Article VIII) and any associated variance requests (Article VIII)

Section 607: REFERRAL TO STATE AGENCY

Any application for development within the Flood Hazard Area Overlay 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)] .

Section 608: PUBLIC NOTICE

Any requirement of public notice required by these regulations, whether or not required by any provision of the Act shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (1) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
- (2) 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;
- (3) 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
- (4) For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

Section 609: APPEALS

A) An interested person may appeal any decision or act taken by the Administrative Officer by filing notice of appeal with the secretary of the Development Review Board, or the Town Clerk if no such secretary has been selected, within fifteen days of the date of such decision or act.

B) The Development Review Board shall set a date and place for a public hearing upon appeal which shall be within 60 days of the filing of the notice of appeal according to §4466 of the Act.

C) On appeal for a variance from the provisions of zoning regulation the Development Review Board may grant such a variance only in strict accordance with §4469 of the Act.

D) The Development Review Board shall render its decision within that period and send to the applicant, by certified mail, and to all parties at the hearing, a copy of the decision. A copy of the decision shall be filed with the Administrative Officer and the Town Clerk. If the board does not render its decision within forty-five days, the Board shall be deemed to have rendered its decision in favor of the appellant.

E) An interested party [as defined by §4465] may appeal a decision of the Board within thirty days of such decision to the Environmental Court, as outlined in §4471 of the Act. The Zoning Administrator shall provide a list of the interested parties to pertinent authorities.

ARTICLE VII EFFECTIVE DATE

This ordinance shall become effective 60 days after the adoption date shown below.

Adopted this _____ day of _____ 2006

Gary Lockerby

Raleigh Palmer

Paul Hansen

Jamie Gotshall

John Beaulac

Attest: _____
Barbara Baker, Town Clerk

APPENDIX A DEFINITIONS

Building: Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or equipment. Porches, whether enclosed or unenclosed shall be considered part of a building.

Structure: An assembly of materials for occupancy or use, including a building, mobile home, trailer, sign, wall or fence.

Lot: Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having not less than the minimum area, width and depth required for the district in which the such land is situated, and having frontage on the street or other means of access as may be determined by the Development Review Board to be adequate as a condition of the issuance of a building on such land.

Lot area: total area within the property lines excluding any part thereof lying within the limits of the public highway or proposed public highway.

Lot depth: Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

Lot Line: Property lines bounding a lot.

Lot Width: Width measured at right angles to its lot depth, at the required building front line.

Non-conforming use: Use of land or structure which does not comply with all zoning regulations for the district in which it is located where such use conformed to all such applicable laws, ordinances and regulations prior to the enactment of these regulations.

Yard: Space on a lot not occupied by a building or structure.

Front Yard: Yard between the front lot line and the front line of the building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the center line of the right-of-way to the front line of the building nearest the centerline of the right-of-way, and shall include any porches –but not steps.

Rear Yard: Yard between the rear lot line and the rear line of a building extended to the side lot line of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

Side Yard: Yard between the principle building or accessory building and a side lot line, and extending through from the front yard to the rear yard.