

Bethel Zoning Ordinance

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ARTICLE 1: ENACTMENT, INTENT AND APPLICATION

SECTION 110. ENACTMENT

In accordance with the Vermont Planning and Development Act 24 V.S.A Section 4401(c), hereinafter referred to as the "Act", there is hereby established a Zoning Ordinance for the Town of Bethel which is set forth in the text and maps below.

SECTION 120. TITLE

This Ordinance shall be known and cited as the "Bethel Zoning Ordinance".

SECTION 130. PURPOSE

This Ordinance is designed to promote the health, safety and general welfare of the inhabitants of the Town of Bethel; to protect and conserve the value of property; to facilitate adequate provision for transportation, water, sewage and solid waste disposal, fire safety, schools, and other public requirements; to ensure the healthful and appropriate distribution of settlement; to protect the rural residential environment, agricultural, recreational, and other land from undue concentrations of populations, traffic congestion, and inadequate parking; to foster orderly community development while preserving the natural resources and retaining the beauty and historic character of the Town; and to give effect to the Bethel Town Plan.

SECTION 140. INTENT

This Ordinance is intended to guide the future use of land and water; the placement of structures on lots and the relationship of structures to open space; and the provision of supporting facilities such as off-street parking. In accordance with the provisions of Vermont Law, this Ordinance is not intended to deprive individual property owners of the reasonable use of their land; does not discriminate amongst social economic groups; does not regulate the materials and manner of building construction, and does not regulate the design of streets.

SECTION 151. EXEMPT LAND DEVELOPMENT

Zoning Permits shall not be required, except as may be applicable within the Flood Hazard Overlay District, for the following:

- a. Normal maintenance and repair of an existing building or structure that does not result in any change to the footprint or height of the structure, or change in use;
- b. Public auctions, garage sales, and yard sales not exceeding four consecutive days nor more than ten days in a calendar year;
- c. Reconstruction of a non-complying structure, or resumption of a non-conforming use (see Section 403 or Section 401);
- d. Accepted agricultural and forestry practices, including the construction of farm structures, provided setback requirements are met (See Section 333);
- e. Small or temporary signs (see Section 323);
- f. Utility poles and related fixtures;
- g. Fuel and propane tanks not used for commercial purposes;
- h. Construction of a driveway or private road (see Select Board for access permits);

- i. Drainage facilities or similar work;
- j. Fences and walls not exceeding 8 feet in height;
- k. Dish antennae twenty-four (24) inches or less in diameter, provided setback requirements are met;
- l. Accessory buildings or structures with a floor area not more than 100 square feet and less than 35 feet in height; and
- m. Subdivision of land parcels incidental to title transfers between owners for the purpose of establishing clear property line boundaries.

SECTION 152. PERMIT REQUIRED FOR NEW DEVELOPMENT

Except as may have been previously approved or exempted under this Ordinance, no construction of any building or structure nor any division of a parcel of land into two lots; nor any alteration to an existing building or structure; nor any change or intensification in the use of any land or structures; nor any grading or filling; nor any mining or extraction of earth resources or landfill operation shall commence without a Zoning Permit issued by the Administrative Officer. In the Flood Hazard Overlay district any dredging, grading, paving, excavation or drilling operations, or storage of equipment or materials shall also not commence without a Zoning Permit issued by the Administrative Officer.

SECTION 153. CONSTRUCTION GIVEN PRIOR APPROVAL

This Ordinance does not require any change in plans for construction of a building, structure, or development of land complying with this Ordinance or amendments thereto, if a prior Zoning Permit was duly issued and the entire building or structure or land development is to be completed in accordance with such plans within two (2) years of the effective date of the Zoning Permit.

SECTION 160. GENERAL OPERATION

The purpose and intent of this Ordinance shall be accomplished by dividing the land in Bethel into various zoning districts. In each district, certain uses of land are permitted as a matter of right upon issuance of an administrative permit by the Administrative Officer, while others (called conditional uses) are allowed with the approval of the Development Review Board (DRB). In either case, a Zoning Permit must be obtained for most construction or for significant changes of use. Standards are set forth in this Ordinance for new construction, the making of improvements, or for significant changes in land use. Persons interested in undertaking a construction or development project are encouraged to contact the Administrative Officer for general information and guidance.

ARTICLE 2: ZONING DISTRICTS

SECTION 200. ESTABLISHMENT OF BASE ZONING DISTRICTS

The Town of Bethel is hereby divided into the following base zoning districts as shown on the official zoning map:

Bethel Village District	BVD
East Bethel Village District	EBD
Medium Density Development District	MDD
Rural Development District	RDD
Resource Conservation District	RCD
Highway Development District	HDD

SECTION 210. OFFICIAL BASE ZONING MAP

The location and boundaries of base zoning districts are established as shown on the Official Zoning Map maintained at the Bethel Municipal building. The Official Zoning Map, together with interpretive guidelines and all amendments thereto, is hereby made a part of this Ordinance. All amendments to the Official Zoning Map are subject to the provisions of this Ordinance regarding amendments.

SECTION 215. ESTABLISHMENT OF OVERLAY ZONING DISTRICTS

In addition to the Base Zoning Districts, the following Overlay Districts are established:

Flood Hazard District	FHD
Steep Slopes District	SSD
Well Head Protection District	WHPD

The areas and boundaries of the Town's Overlay Districts are established on separate maps on file at the Bethel Town Offices. These maps, together with interpretative guidelines and all amendments thereto, are hereby made a part of this Ordinance. The FHD shall apply to all lands in the Town of Bethel, Vermont, identified as areas of special flood hazard 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 VSA Section 753, which are hereby adopted by reference and declared to be part of these regulations.

SECTION 220. INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Base Map or Overlay District maps, the location of such boundaries shall be determined by the

Administrative Officer. The decisions of the Administrative Officer may be appealed by the applicant or interested parties to the DRB for action.

The Administrative Officer and DRB shall use the following guidelines to assist them in making a determination:

1. Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way shall be construed to follow such center lines;
2. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines;
3. Boundaries indicated as following shorelines shall be construed as the normal mean water level;
4. Boundaries indicated as parallel to or extensions of features in (1) through (3) above shall be so construed;
5. Where circumstances are not covered by (1) through (4) above, the DRB shall interpret the district boundaries.

SECTION 230. USE CATEGORIES

For the purpose of establishing permitted and conditional uses within the zoning districts, the following categories of use are designated and defined:

1 & 2 Family Dwelling: Any use of land or structures comprising the residence of one or two families in a primary structure. Examples: cabin, mobile home, duplex.

Multi-family Dwelling: Any use of land or structures comprising the residence of three or more families in a primary structure. Examples: apartment house, attached townhouses.

Town Center Commercial: Any use of land or structures for the primary purpose of buying or selling goods where the goods are primarily contained inside a primary structure. Examples: retail shops, general store.

Roadside Commercial: Any use of land or structures for the purpose of buying or selling goods which are commonly displayed or sold outside a primary structure. Examples: gasoline station, mobile home sales lot, car dealership.

Individual Service: Any use of land or structures for the purpose of providing a service which customarily involves the presence of no more than a few individuals at the same time. Examples: real estate offices, hairdressers, repair shops, guesthouse.

Commercial Group Service: Any use of land or structures for the purpose of providing a service involving the presence of a number of individuals at one time. Examples: motels, hotels, theaters, restaurants.

Community Service: Any use of land or structures for the purpose of providing or conducting educational or religious services. Examples: schools (public and private), churches.

Light Industrial: The processing, assembly, distribution or packaging of natural or man-made products where such activity results in no substantial off-site impacts, such as, but not limited to noise, vibration, air pollution, fire hazard or noxious emission. All such activity and storage of raw or finished products are enclosed in a building or are screened from the abutting properties and public rights of way. Such uses include, but are not limited to, the

following: cabinetry or woodworking shop, electronics high-tech manufacturing or assembly, machine shop, sewing, printing, research and testing laboratory, and similar uses.

Heavy Industrial: The processing, assembly, distribution, or packaging of natural or man-made products where such activity results in substantial off-site impacts such as, but not limited to noise, vibration, air pollution, fire hazard or noxious emission. All such activity and storage of raw or unfinished products are not enclosed inside a building or screened from the abutting properties and public rights-of-way. Such uses include, but are not limited to, the following: lumber mills, junk yards, truck terminals, concrete, asphalt or brick plants, quarries, bulk fuel storage facilities, foundry, and similar uses.

Commercial Outdoor Recreation: Any use of land or structures for the provision of private outdoor recreational services that do not involve the construction of substantial structures. Examples: travel trailer parks, tennis courts, golf courses.

Agriculture: 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, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site preparation and sale of agricultural products or wastes principally produced on the farm; or the on-site production of fuel or power from agricultural products or wastes produced on the farm; or the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing and providing instruction and lessons in riding, training, and the management of equines; or a structure for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in Vermont Statutes Annotated Title 10, but excluding a dwelling for human habitation. A person shall notify the Administrative Officer of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for an agricultural use of land or for a farm structure shall be required.

Municipal: Any use of land or structures for the purpose of providing municipal or quasi-municipal services. Examples: public utility sub-stations, municipal buildings, public parks, libraries, cemeteries.

SECTION 240. ACCESSORY USES OR STRUCTURES

All principal uses or structures imply the inclusion of appropriate accessory uses or structures that are customarily incidental and subordinate to the principal use or structure and located on the same lot. All accessory structures, except fences, walls, driveways and parking areas shall conform to lot setback requirements. A Zoning Permit shall be required for the construction of any accessory building, structure, or use, unless exempted per Section 151.

SECTION 260. OFF-STREET PARKING

Except for land development located within the Village Business District, for every building hereafter erected, altered, extended or changed in use, and for every lot hereafter developed, there shall be provided off-street parking spaces as set forth below. A parking space shall be nine (9) feet by eighteen (18) feet and shall not include access drives or common areas.

1. Residential Areas – Two parking spaces per dwelling unit.
2. Commercial or Business Uses – One parking space for every business or employee vehicle, plus one space for every two hundred (200) square feet of floor area.
3. Places of Public Assembly/Restaurants – One parking space for every three seats, or capacity thereof, and one space per employee.
4. Industrial Uses – One parking space for every business or employee vehicle.

In the case of multiple uses occupying the same building or structure, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately.

With the approval of the DRB, parking spaces may be located on lands not part of the site or lot on which the building, structure, or use is situated, provided that the Board has evidence that such parking is available and dedicated to the requested structure or use. Parking spaces for any number of concurrent uses may be combined into one parking area, but the spaces required for any one use may not be assigned to another, except with the approval of the DRB.

In cases where it is demonstrated by the Applicant that the parking space requirements referenced above provide an undue hardship to the Applicant and do not serve the public good, or may be addressed by other means, the DRB may waive or reduce these requirements.

SECTION 270. BASE ZONING DISTRICTS

The following Base Zoning Districts are hereby established within the Town:

1. Bethel Village District
2. East Bethel Village District
3. Highway Development District
4. Medium Density District
5. Rural Development District
6. Resource Conservation District

SECTION 271. BETHEL VILLAGE DISTRICT

Purpose: The purpose of the Bethel Village District is to support and maintain the role of the Village as the focus of many social and economic activities in the community and provide for residential, commercial, industrial, municipal and other compatible development that serves the needs of the Town as a whole.

Description: The Bethel Village District includes areas historically considered to be the Bethel Village and those additional areas currently serviced by town water or sewage or both. To promote health, safety and an efficient use of land within the district, the district is further divided into sub-districts thereby segregating types of uses. The following sub-districts are created:

Village Residential District

Village Business District

Village Industrial District
Village Commercial District.

Village Residential District

Purpose: The purpose of the Village Residential District is to provide for high-density residential development in areas which are located in the village and which are serviced by town water or sewage facilities.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and two Family Dwellings
2. Multiple Family Dwelling
3. Accessory uses or structures
4. Home Occupations (see Section 311)
5. Accessory Apartments (see Section 330)
6. Detached Housing (see Section 330)
7. Outdoor Signs (see Section 323)
8. Temporary Uses or Structures (see Section 318)
9. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Individual Service
2. Community Service
3. Municipal
4. Wireless Communications Facilities (see Section 326)
5. Ponds or Impoundments (see Section 325)
6. Day Care Facilities (see Section 332)
7. Special Public Uses (see Section 324)
8. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 20,000 square feet for all uses, excepting multiple family which requires 7500 square feet per unit.
2. Rear and Side Setback Minimum: 25 feet
3. Front Setback Minimum: 25 feet from Right of Way.
4. Off-Street Parking Requirements (see Section 260)

Village Business District

Purpose: The purpose of the Village Business District is to provide a commercial center in the Town which will permit a broad range of retail and personal service shops, professional and governmental offices, and supportive, compatible commercial uses. Residential uses which add interest and vitality to the area and accommodate those who desire high-density housing is encouraged.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and two Family Dwellings
2. Multiple Family Dwelling
3. Town Center Commercial
4. Individual Service
5. Accessory uses or structures
6. Home Occupations (see Section 311)
7. Accessory Apartments (see Section 330)
8. Detached Housing (see Section 330)
9. Outdoor Signs (see Section 323)
10. Temporary Uses or Structures (see Section 318)
11. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Commercial Group Service
2. Community Service
3. Municipal
4. Light Industrial
5. Wireless Communications Facilities (see Section 326)
6. Ponds or Impoundments (see Section 325)
7. Day Care Facilities (see Section 332)
8. Special Public Uses (see Section 324)
9. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 10,000 square feet for all uses, excepting multiple family which requires 3000 square feet per unit.
2. Rear and Side Setback Minimum: None
3. Front Setback Minimum: None.
4. Off-Street Parking Requirements (see Section 260)

Village Industrial District

Purpose: The Village Industrial District provides for employment opportunities in manufacturing, warehousing, and research and development in areas serviced by good transportation facilities and public utilities. Other uses incompatible with industrial uses shall not be permitted for the health, safety and welfare of the community.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. Light Industrial
2. Accessory uses or structures
3. Home Occupations (see Section 311)
4. Outdoor Signs (see Section 323)

5. Temporary Uses or Structures (see Section 318)
6. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Heavy Industrial
2. Multiple Family Dwelling
3. Wireless Communications Facilities (see Section 326)
4. Ponds or Impoundments (see Section 325)
5. Special Public Uses (see Section 324)
6. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 1 acre for all uses
2. Rear and Side Setback Minimum: 25 feet
3. Front Setback Minimum: 25 feet
4. Off-Street Parking Requirements (see Section 260)

Village Commercial District

Purpose: The purpose of the Village Commercial District is to accommodate existing uses and provide for industrial expansion in the Bethel Village area.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and Two Family Dwellings
2. Accessory uses or structures
3. Home Occupations (see Section 311)
4. Accessory Apartments (see Section 330)
5. Detached Housing (see Section 330)
6. Outdoor Signs (see Section 323)
7. Temporary Uses or Structures (see Section 318)
8. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Roadside Commercial
2. Town Center Commercial
3. Multiple Family Dwelling
4. Individual Service
5. Community Service
6. Light Industrial
7. Heavy Industrial
8. Municipal
9. Wireless Communications Facilities (see Section 326)
10. Ponds or Impoundments (see Section 325)
11. Day Care Facilities (see Section 332)

12. Special Public Uses (see Section 324)
13. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 20,000 square feet for one and two family dwellings and municipal; 1 acre for Light Industrial; 2 acres for Roadside Commercial, Community Service and Heavy Industrial
2. Rear and Side Setback Minimum: 25 feet, except where an industrial or commercial use is adjacent to a residential use which is 75 feet
3. Front Setback Minimum: 25 feet from right of way for all uses, except for Roadside Commercial and Heavy Industrial which is 50 feet.
4. Off-Street Parking Requirements (see Section 260)

SECTION 272. EAST BETHEL VILLAGE DISTRICT

Purpose: The purpose of the East Bethel Village District is to provide for the continuation of East Bethel Village as essentially a residential community with a moderate density of development and allow for those limited services that contribute to and support residential communities.

Description: The East Bethel Village District includes those lands historically considered to lie within East Bethel Village.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and two Family Dwellings
2. Multiple Family Dwelling
3. Accessory uses or structures
4. Home Occupations (see Section 311)
5. Accessory Apartments (see Section 330)
6. Detached Housing (see Section 330)
7. Outdoor Signs (see Section 323)
8. Temporary Uses or Structures (see Section 318)
9. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Town Center Commercial
2. Individual Service
3. Community Service
4. Commercial Group Service
5. Light Industrial
6. Municipal
7. Wireless Communications Facilities (see Section 326)
8. Ponds or Impoundments (see Section 325)
9. Day Care Facilities (see Section 332)

10. Special Public Uses (see Section 324)
11. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 20,000 square feet per unit for multiple family, 1 acre for one and two family; one acre for all other uses, except light industrial which is 2 acres.
2. Rear and Side Setback Minimum: 25 feet
3. Front Setback Minimum: 25 feet from right of way except for light industrial which is 50 feet.
4. Off-Street Parking Requirements (see Section 260)

SECTION 273. HIGHWAY DEVELOPMENT DISTRICT

General Purpose: The purpose of the Highway Development District is to provide for residential and commercial development on lands lying adjacent to Bethel Village and along major roads in the Town. Such development should be designed so it does not interfere with the function of such roads or detract from their scenic quality.

Description: The Highway Development District includes lands lying adjacent to Bethel Village and the town's major roads.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and two Family Dwellings
2. Multiple Family Dwelling
3. Individual Service
4. Community Service
5. Municipal
6. Accessory uses or structures
7. Home Occupations (see Section 311)
8. Accessory Apartments (see Section 330)
9. Detached Housing (see Section 330)
10. Outdoor Signs (see Section 323)
11. Temporary Uses or Structures (see Section 318)
12. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Commercial Group Service
2. Light Industrial
3. Commercial Outdoor Recreation
4. Wireless Communications Facilities (see Section 326)
5. Roadside Commercial
6. Town Center Commercial
7. Ponds or Impoundments (see Section 325)
8. Day Care Facilities (see Section 332)

9. Special Public Uses (see Section 324)
10. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 1 acre per unit for Multiple Family Dwelling, 2 acres for One and Two Family and Commercial Outdoor Recreation, 1 acre all other uses
2. Rear and Side Setback Minimum: 25 feet except all Family Dwellings and Commercial Outdoor Recreation- then 50 feet
3. Front Setback Minimum: 50 feet from right of way
4. Off-Street Parking Requirements (see Section 260)

SECTION 274. MEDIUM DENSITY DEVELOPMENT DISTRICT

Purpose: The purpose of the Medium Density Development District is to maintain the residential/agricultural character of Town lands outside the village areas by providing for agricultural uses and residential development in densities compatible with agricultural uses and the capability of the lands to support such development. Additionally, allowance is made for uses of a limited nature that enhance the quality of residential/agricultural communities through provision of useful services.

Description: The Medium Density Development District includes Town lands characterized by cleared and wooded areas with generally good soils and shallow slopes, direct access to year-round public roads, and availability of private utilities such as electricity and telephone.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and two Family Dwellings
2. Multiple Family Dwelling
3. Accessory uses or structures
4. Home Occupations (see Section 311)
5. Accessory Apartments (see Section 330)
6. Detached Housing (see Section 330)
7. Outdoor Signs (see Section 323)
8. Temporary Uses or Structures (see Section 318)
9. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Individual Group Service
2. Commercial Outdoor Recreation
3. Municipal
4. Wireless Communications Facilities (see Section 326)
5. Ponds or Impoundments (see Section 325)
6. Day Care Facilities (see Section 332)
7. Special Public Uses (see Section 324)
8. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 4 acres for all uses, except for multiple family dwellings which require 2 acres per unit.
2. Rear and Side Setback Minimum: 50 feet for all uses
3. Front Setback Minimum: 50 feet from right of way
4. Off-Street Parking Requirements (see Section 260)

SECTION 275. RURAL DEVELOPMENT DISTRICT

Purpose: The purpose of the Rural Development District is to allow for low-density residential development compatible with agricultural and conservation uses in areas physically remote from Bethel Village. Restrictive requirements in this district are intended to encourage development of areas closer to Bethel Village.

Description: Lands in the Rural Development District possess generally the same characteristics as those lands in the Medium Density Development District with the added characteristic of being physically remote from Bethel Village. Because of this remoteness, Town services such as road maintenance and school busing, though provided, are provided on a more limited and intermittent basis than in the Medium Density Development District.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and two Family Dwellings
2. Accessory uses or structures
3. Home Occupations (see Section 311)
4. Accessory Apartments (see Section 330)
5. Detached Housing (see Section 330)
6. Outdoor Signs (see Section 323)
7. Temporary Uses or Structures (see Section 318)
8. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Individual Service
2. Multiple Family Dwelling
3. Commercial Outdoor Recreation
4. Municipal
5. Wireless Communications Facilities (see Section 326)
6. Ponds or Impoundments (see Section 325)
7. Day Care Facilities (see Section 332)
8. Special Public Uses (see Section 324)
9. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 10 acres for all uses
2. Rear and Side Setback Minimum: 50 feet.
3. Front Setback: 50 feet.
4. Off Street Parking Requirements: See Section 260.

SECTION 276. RESOURCE CONSERVATION DISTRICT

Purpose: The purpose of the Resource Conservation District is to protect the natural resource value of town lands which are essentially undeveloped, provide significant recharge to the ground and surface water supplies of the Town and region, are important for wildlife and wildlife habitat, include irreplaceable recreational and scenic areas and have potential for commercial logging and cutting of firewood.

Description: The Resource Conservation District includes town lands characterized as generally forested with shallow soils and steep slopes. These lands lack direct access to year-round public roads and utilities and public services are commonly unavailable.

Permitted Uses: The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and two Family Dwellings
2. Accessory uses or structures
3. Home Occupations (see Section 311)
4. Accessory Apartments (see Section 330)
5. Detached Housing (see Section 330)
6. Outdoor Signs (see Section 323)
7. Temporary Uses or Structures (see Section 318)
8. Minor Subdivisions (see Section 334)

Conditional Uses: The following uses are permitted upon granting Conditional Use Approval by the DRB and the issuance of a Zoning Permit by the Administrative Officer:

1. Individual Service
2. Multiple Family Dwelling
3. Commercial Outdoor Recreation
4. Municipal
5. Wireless Communications Facilities (see Section 326)
6. Ponds or Impoundments (see Section 325)
7. Day Care Facilities (see Section 332)
8. Special Public Uses (see Section 324)
9. Extraction of Soil, Minerals, Sand, or Gravel (see Section 321)

Land, Area, and Structural Requirements

1. Lot Area Minimum 20 acres for all uses
2. Rear and Side Setback Minimum: 50 feet
3. Front Setback Minimum: 50 feet from right of way
4. Off Street Parking Requirements: See Section 260

SECTION 277. FLOOD HAZARD OVERLAY DISTRICT

Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in the Flood Hazard Overlay District, and to minimize losses due to floods by: restricting or prohibiting uses that are dangerous to health, safety, or property in times of flood or cause excessive increase in flood heights or velocities; requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction; protecting individuals from buying lands that are unsuited for their intended purposes because of flood hazards.

Description: The Flood Hazard Overlay District includes all areas designated as "flood hazard area" on the National Flood Insurance Program (NFIP) Maps, and any revisions thereto. The current NFIP Maps are on display at the Bethel Municipal Offices and they, together with all explanatory matter thereon, are adopted by reference to be part of this Ordinance. Where available, (i.e. zones A1-A30, AE and AH) the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of this Bylaw.

Interpretation of District Boundaries: The Administrative Officer shall determine the boundaries of the designated Flood Hazard Overlay District by scaling distances on the NFIP map. Appeals with respect to a boundary interpretation shall be made by filing a notice with the Secretary of the DRB within fifteen (15) days of the decision or act. For areas in doubt, and where such determination could place the structure outside the SFHD, the burden of proof shall be on the applicant, who shall seek a Letter of Map Amendment/Letter of Map Revision from FEMA, which shall constitute proof.

Permitted Uses: Upon issuance of a Zoning Permit by the Administrative Officer, the following open space uses shall be permitted within the Flood Hazard District to the extent that they are not prohibited within the base zoning districts and provided that they do not require the erection of structures or storage of materials and equipment, the placement of fill or grading of land, the borrowing of fill from outside the Flood Hazard Overlay District or channel modification or relocation, and do not obstruct flood flows, affect the water carrying capacity of the floodway or channel, or increase offsite flood damage potentials.

1. Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving 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.
2. Residential uses, such as lawns, gardens, parking areas, and play areas.

Junkyards, as defined in 24 VSA Section 2068, and storage facilities for chemicals, explosives, flammable liquids or other toxic materials shall be prohibited in the overlay district.

Conditional Uses: All new construction and development uses prescribed by this Ordinance not included on the list of Permitted uses above and which fall within the designated Flood Hazard Overlay District are permitted only with Conditional Use Approval by the DRB as provided below.

Conditional Use Review and Approval Procedures

1. Step One: Upon receiving an application for Conditional Use Approval the DRB shall, prior to scheduling a hearing and rendering a decision thereon, obtain:

- a.) base flood elevation data for all subdivisions and other proposed new developments greater than fifty (50) lots or five (5) acres, whichever is the smaller;
 - b.) the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
 - c.) confirmation as to whether or not such structures contain a basement;
 - d.) the elevation, in relation to mean sea level, to which any structure or substantial improvement has been flood proofed.
2. Step Two: In addition, the DRB shall require as much of the following information as it is deemed necessary for determining the suitability of the particular site for the proposed use:
 - a.) Plans in triplicate, drawn to scale, showing the location, dimensions, contours, and elevation of the lot; the size and location on the site of existing or proposed structures, fill or storage of materials; the location and elevations of streets, water supply, and sanitary facilities; and the relation of the above to the location of the channel, floodway, and base flood elevation when such information is available.
 - b.) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, and cross-sectional areas to be occupied by the proposed development.
 - c.) A profile showing the slope of the bottom of the channel or flow line of the stream.
 - d.) Specifications for building construction and materials, flood proofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel improvement, storage of materials, water supply, and sanitary facilities.
 3. Step Three: In the absence of NFIP base flood elevation data, the DRB shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for all new construction and substantial improvements under this Ordinance.
 4. Step Four: The DRB shall notify adjacent communities and the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section for comment in accordance with 24 VSA Section 4424. For any permit application involving the alteration or relocation of a watercourse, the Zoning Administrator shall notify adjacent communities, the Administrator of the National Flood Insurance Program, and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section. A permit application will only be considered ready for conditional use hearing following the receipt of comments or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
 5. Step Five: The Secretary of the Development Review Board shall transmit one copy of the information noted above to the Vermont Agency of Natural Resources as required by 24 VSA Section 4424.
 6. Step Six: In reviewing the application, the DRB shall consider any evaluation provided by the Vermont Agency of Natural Resources and shall determine that the proposed use will conform to the review standards of this Section.

7. Step Seven: No Zoning Permit may be granted for new construction or the development of land in any area designated as a flood plain by the Vermont Department of Water Resources prior to the expiration of a period of thirty (30) days following the submission of a report to the Vermont Department of Environmental Conservation.

Considerations by the Development Review Board: In reviewing each application, the DRB shall assure that the flood carrying capacity within any portion of an altered or relocated watercourse is maintained, and consider:

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

Conditions Attached to Conditional Uses: Upon consideration of those factors referenced above, and the purpose of this Section, the DRB shall attach such conditions to its approval as are necessary to meet the flood plain management requirements of the FIA regulations and further the purpose of this Zoning Ordinance. Such conditions shall require that:

1. All permits for development in the FHD shall be conditioned on the receipt of all necessary permits from those government agencies from which approval is required by Federal, State or Municipal Law.
2. Development within the floodway is prohibited, except for minor improvements to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, or health and safety measures.
3. In addition to all provisions below, proposed developments in the floodway must demonstrate through hydrologic and hydraulic analyses, performed and certified in accordance with standard engineering practice by a registered professional engineer, that the proposed development will result in no increase in flood levels during the occurrence of the base flood.

Within the special flood hazard areas outside of the floodway:

1. All Development- All development shall be reasonably safe from flooding and:

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

2. Residential Development:

a) New construction and existing buildings to be substantially improved that are located in Zones A, A1-30 and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.

b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:

i. located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.

ii. located in an existing manufactured home park, where elevating a replacement home to or above base flood level elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist flotation, collapse, and lateral movement.

3. Non-Residential Development:

a) New construction located in Zones A, A1-30, and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.

b) Existing buildings to be substantially improved located in Zones A, A1-30, AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or together with attendant utility and sanitary facilities be designed so that the structure is watertight at least one foot above flood elevation 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.

c) A permit for a building proposed to be flood proofed shall not be issued until a registered 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.

4. Subdivisions:

a) 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.

b) Subdivisions (including manufactured home parks) shall be designed to assure:

- i. such proposals minimize flood damage within the flood-prone area,
- ii. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage,
- iii. adequate drainage is provided to reduce exposure to flood hazards, and
- iv. any access roads to habitable structures or critical facilities shall be at least one foot above base flood elevations and able to withstand a 100-year event without failure or overtopping.

5. Enclosed Areas Below the Lowest Floor:

a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage and such a condition shall clearly be stated in any permits.

b) New construction and existing buildings to be substantially improved 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.

c) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

6. Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:

- a) be on the site for fewer than 180 consecutive days,
- b) be fully licensed and ready for highway use, or
- c) be permitted in accordance with the elevation and anchoring requirements for 'manufactured homes' in section B.2.(b).

7. **Accessory Structures:** A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:
 - a) shall not be used for human habitation,
 - b) shall be designed to have low flood damage potential,
 - c) shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
 - d) shall be firmly anchored to prevent floatation, and
 - e) shall have service facilities such as electrical and heating equipment elevated or flood proofed.
8. **Water Supply Systems:** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
9. **Sanitary Sewage Systems:** New and replacement 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.
10. **On-Site Waste Disposal Systems:** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. The lowest elevation of the wastewater distribution field shall be located at least 1 foot above the base flood elevation.
11. **Watercourse Carrying Capacity:** The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
12. No structure shall be placed closer than fifty (50) horizontal feet from the top of any river or perennial stream bank within the overlay.

The Development Review Board may attach such additional conditions to the granting of a permit as are necessary to meet the purposes and flood hazard area management requirements of these zoning regulations.

Special Administrative Procedures in the Flood Hazard Overlay District

Records: The Administrative Officer shall maintain a record of:

1. All permits issued and denied for development in areas of special flood hazard;
2. The as-built elevation certificate (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings;
3. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been flood proofed;
4. All flood proofing certifications required under this regulations; and
5. All variance actions, including justification for their issuance.

Variances: The following procedures shall apply for variance in the area of special flood hazard: Variances shall be granted by the DRB only in accordance with the provisions of Section 603 of this Ordinance, and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

Annual Report to Federal Insurance Administration: The Administrative Officer shall, to the extent possible, submit to the Administrator the information required by the FIA annual report form with respect to the administration and enforcement of the flood hazard area bylaws. A copy of the annual report shall be submitted to the state coordinating agency.

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

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

Definitions

Area of special flood hazard - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, A.H, AI-30, or A99.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) – means the 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 - means any area of the building having its floor subgraded (below ground level) on all sides.

Building - means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

Development – within the overlay district means 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.

Existing manufactured home park or subdivision – means 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 the community.

Expansion to an existing manufactured home park or subdivision – means 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).

Filling: means the placement of 10 or more yards on a lot.

Flood: means (a) 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 area, as when earth is carried by a current of water and deposited along the path of the current. (b) 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) - means an official map of a community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood proofing - means 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 - means 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.

Historic Structure: means any structure that is: (a) 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; (b) 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; (c) Individually listed on a state inventory of historic places in communities with historic preservation programs which have been approved by the Secretary of the Interior; or (d) 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.

Lowest floor - means 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 Part 60.3.

Manufactured Home - means 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 connected to the required utilities. For floodplain management purposes, the term "manufactured home, also includes park trailers, travel trailers, and other similar vehicles

placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured home park or subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Recreational Vehicle: means 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 tow-able 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.

Special Flood Hazard District: is the land 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/AI-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 – in the Flood Hazard Overlay district 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 or 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.

Structure –in the Flood Hazard Overlay district means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (‘a manufactured home,’ also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) 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. For the latter purpose, ‘structure’ does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank, [See also Article 8, Definitions, ‘Structure.’]

Substantial damage – means 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 – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which, from the date of adoption of this definition in the ordinance, cumulatively equals or exceeds 50 percent of the market value of the structure. 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’.

Violation – means 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 certificates, 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.

SECTION 278. STEEP SLOPES DISTRICT

It is the purpose of this section to prevent harm to Town soils and waters that could result from environmentally unsound development on slopes in excess of 25%.

Unless otherwise exempt from a Zoning Permit, no building, structure, or use of land subject to regulation under this Ordinance shall be permitted on slopes exceeding 25% gradient until subject to Conditional Use Review and Approval by the DRB. The DRB in rendering approval must find that the proposed building, structure, or use will not result in unreasonable soil erosion, or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. To help satisfy this requirement, applicants shall provide an erosion control plan and agree to adhere to it.

SECTION 279. WELLHEAD PROTECTION DISTRICT

For the purposes of maintaining a quality source of public water to the citizens of Bethel, accommodating development surrounding the wellhead, protecting the Town’s investment in the water system and implementing the Town’s Source Protection Plan, a Wellhead Protection District is created.

All land development, except as otherwise may be exempted or excluded, within the Wellhead Protection District, shall be subject to Conditional Use Review to ensure adequate protection of the resource. In considering an application, the DRB shall evaluate the potential impact of the proposed use on the resource. No Zoning Permit shall be issued unless all approvals required under this section are first obtained by the Applicant.

Due to the relatively high risk of permanent groundwater contamination, the following uses or activities are prohibited within the Wellhead Protection District:

1. commercial storage of liquid petroleum products;
2. commercial salvage yards or junkyards;
3. manufacture, use or storage of toxic chemicals exceeding 50 gallons or 250 pounds of dry weight;
4. uncontained storage of animal manure;
5. landfills or waste transfer stations; and
6. industrial uses that discharge process waste on-site.

Land development that involves or typically requires installation, maintenance, or operation of a subsurface sewage disposal system shall not be permitted unless the Board first determines that the facility will not adversely affect groundwater quality or contaminate Bethel's public water supplies. To the extent necessary, the Applicant may be required to provide testimony from a qualified hydrologist documenting that the intended development has been planned or engineered so as not result in a high risk of groundwater and surface water pollution.

ARTICLE 3: REQUIREMENTS FOR ALL DISTRICTS

SECTION 310. REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR PUBLIC WATERS

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 DRB access to such a road or waters by a permanent easement or right of way at least twenty (20) feet in width.

SECTION 311. PROTECTION OF HOME OCCUPATIONS

Nothing in this Ordinance shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse impact on the character thereof, and which meets the following standards:

1. The home occupation shall be carried on by residents of the premises, employing not more than two (2) persons not living on the premises;
2. The home occupation shall be carried on within the principal or accessory structures;
3. Exterior signs or displays other than those normally permitted in the district or exterior storage of material shall not be permitted;
4. Obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference, or heat that is detectable at the boundaries of the business shall not be generated;
5. Adequate parking shall be provided off-street.

SECTION 312. PERFORMANCE STANDARDS

No land or structure in any district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions which do or might adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose. The burden of showing that the following standards are met shall be on the applicant for a Zoning Permit. These standards shall apply at the property line.

1. Noise: No noise or vibration is permitted which is incompatible with the reasonable use of the surrounding area.
2. Air Pollution: No emission, including odor, smoke, fumes and dust is permitted which could cause damage to health, animals, vegetation or other forms of property.
3. Glare, Lights, Reflection: No lighting shall be permitted which is a nuisance to others or which could impair the vision of any motor vehicle, or which is detrimental to public health, safety or welfare.
4. Neither fire nor any storage of explosives, flammable materials, or other hazardous substances shall be permitted which might significantly endanger persons or property.

SECTION 313. MORE THAN ONE RESIDENCE ON A LOT

If more than one residential structure shall be placed on any one lot, such structure shall be located so that it and any structure accessory to it could be set off as a separate lot conforming to all the applicable provisions of this Ordinance.

SECTION 314. MULTIPLE USE OF LOTS

A combination of principal uses on a lot is permitted provided:

1. The lot is large enough to meet the area standards of the most intensive use, and
2. Setback requirements and all other applicable standards are met for all uses.

Examples of combined uses are an apartment over a store or a single-family residence on the same lot as a multi-family dwelling.

SECTION 315. DIVISION OF LOTS

No lot shall be divided into two or more lots unless each resulting lot conforms to all applicable provisions of this Ordinance.

SECTION 316. REDUCTION OF LOT AREA

No lot shall be so reduced in area that the area, yards, lot width, frontage or other requirements of this Ordinance do not comply with the minimum standards prescribed for each district.

SECTION 317. LOTS IN TWO ZONING DISTRICTS

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

SECTION 318. TEMPORARY USES AND STRUCTURES

Temporary permits may be issued by the Administrative Officer for a period not exceeding one (1) year for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or terminate the use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one (1) year. Any temporary permits involving extraction of soil, sand, or gravel are subject to all requirements of Section 321 of the Bethel Zoning Ordinance.

SECTION 319. TRAVEL TRAILERS

No travel trailer shall be parked in the Town of Bethel except in accordance with the following regulations:

1. A travel trailer may be parked and used as living quarters at a trailer camp which meets state standards.
2. A travel trailer may not be located on a premise and used as living quarters unless written permission has been obtained from the landowner. Such permission shall authorize the location and occupancy of a travel trailer only by a bonafide non-paying guest.
3. No travel trailer shall be used as living quarters for more than twenty-one (21) days during a calendar year unless a permit has been obtained. The DRB may authorize the Administrative Officer to issue such a permit, for a period not to exceed ninety (90) days in

a calendar year if the DRB determines that such use would not adversely affect the character of the area in which it would be located.

4. The owner of a travel trailer may park it on his own property. A trailer so parked shall not be used as living quarters and shall not be hooked up to any utilities.
5. At a travel trailer sales lot.

SECTION 320. ABANDONMENT OF STRUCTURES

Within one (1) year after work on an excavation for a building has begun, or within six (6) months after any building or structure has collapsed, been destroyed, demolished or abandoned, the DRB, after a public hearing, may require the owner to remove all structural materials from the site, fill to grade any remaining excavations and screen or landscape the property.

SECTION 321. EXTRACTION OF SOIL, MINERALS, SAND OR GRAVEL

Any soil, mineral, sand or gravel excavation or processing operation, expansion of any such existing operation, and resumption of an inactive operation is a prohibited use in all districts unless a Zoning Permit has been issued. For a gravel pit, "expansion" shall include any substantial increase in the rate of gravel removed from the pit, or any use of a lateral area which was not previously part of an existing operation. No Zoning Permit under this section shall be issued until: an application has been filed with the Administrative Officer containing information set out below; Conditional Use Approval has been granted by the DRB based on criteria set out below; and a Site Plan, including a plan for the rehabilitation of the site, has been approved by the DRB.

Application for Approval: Applicants shall provide the following information:

1. Proof of notification of abutting landowners to the project.
2. Site Plan showing the existing topography based on a current survey showing twenty-foot contour intervals. Elevation should be related to USGS data.
3. Excavation Plan showing the breadth, depth and slope of the proposed excavation, and any existing excavations.
4. On the Site Plan or Excavation Plan the location of the following must be indicated:
 - a.) wooded and heavily vegetated areas
 - b.) existing buildings and structures
 - c.) wells
 - d.) septic systems
 - e.) utilities and the like
 - f.) public roads and rights-of way showing width and length
 - g.) easements on or below the ground
 - h.) surface drainage patterns including wetlands, streams and standing water
 - i.) any existing and proposed access roads including width and surface materials, parking areas, fencing, berms, buffer, and visual barriers

- j.) a log of soil borings taken to the depth of the proposed excavation (the number of borings taken will vary with the size and geological make-up of the site)
 - k.) all measures to control erosion, sedimentation, water pollution, air pollution, noise pollution and hazards to human health, safety and welfare.
5. Applicant shall submit a Reclamation Plan that includes the following:
 - a.) all boundaries of the area proposed for restoration
 - b.) final topography of the area proposed for restoration
 - c.) final surface drainage patterns, including the location and physical characteristics of all artificial and/or modified drainage facilities
 - d.) schedule of restoration activities including seeding mixtures, cover vegetation, fertilizer types and depth of top soil
 - e.) subsequent use of the site, if known or anticipated
 - f.) seal and signature of an engineer registered in the State of Vermont
 6. Operating information describing the proposed methods of operation indicating the type of equipment to be used and duration of the proposed activities.
 7. Transportation information showing:
 - a.) type and weight of motor vehicles involved.
 - b.) routes to be utilized
 - c.) proposed number of trucks per day at peak operation

The burden of proof shall be on the applicant to show the proposed operations may be feasibly undertaken without violating the standards established under this section and without substantial damage or hazard to the public or to adjoining properties.

Criteria for Approval: In considering an application for Conditional Use approval under this section the DRB may apply the following specific standards in addition to other conditional use standards as specified in Section 601 of this Ordinance:

1. Operating Standards:
 - a) Hours of operation will be limited to Monday through Saturday from 6:30 a.m. until 5:30 p.m. Operations will be prohibited on federal legal holidays. Exceptions to this rule may be granted by the DRB and on demonstration by the applicant that the increase in activity will not materially or adversely affect the character of the immediate area, neighboring land uses, and traffic in the vicinity. In case of an emergency, the Town Manager or Select Board may change hours of operation.
 - b) Setback requirements shall be fifty (50) feet from any roadway and two hundred (200) feet from any adjoining property.
 - c) If depth of the excavation exceeds fifteen (15) feet and temporary slopes will exceed 1:1 in grade, a berm or fence shall be required to warn of the danger and limit access.
 - d) There shall be no accumulation of freestanding water within the excavation area for prolonged periods.

- e) A sufficient amount of topsoil, stripped from the excavation area, shall be stockpiled for use in the subsequent restoration of the site. No topsoil shall be removed from agricultural land.
- f) All vehicles transporting excavated material shall be dressed to prevent dust and spillage when loaded.
- g) All temporary structures shall be removed within thirty (30) days after the operation ceases.
- h) All equipment shall be furnished with noise muffling equipment. During operating hours noise measured at the closest abutting property line and/or public roadway shall not exceed 80db.
- i) The traffic generated by the proposed project shall not have a significant adverse impact on the area through which it travels.

Site Reclamation Standards:

1. No slope in soil material shall be left in a grade steeper than 2: 1 (Run: Rise). No slope in soil material on agricultural land shall be left in a grade steeper than 3:1.
2. All debris, stumps, boulders, etc. shall be disposed of in a manner acceptable to the Town Manager.
3. Ground levels and grades shall be restored as shown on the approved restoration plan.
4. The rehabilitation site must be compatible with the character of the natural landscape in the vicinity of the site.
5. Implementation of rehabilitation activities shall be on a continuing basis commencing as soon as practical when extraction activities have been completed. In no event shall an excavation site exceed ten (10) acres without commencing rehabilitation activities.
6. Stormwater runoff, erosion and sedimentation following rehabilitation shall be controlled by the applicant to prevent erosion debris and other loose material from filling drainage courses, streets, or private property. All provisions to control natural drainage water shall meet with the approval of the Administrative Officer or the DRB.

Performance Bond: Before an application can be approved under this Section, a performance bond shall be secured from the applicant, in an amount sufficient to ensure that upon completion of the extraction activities, the site will be left in a condition consistent with the approved reclamation plan. The bond must be for an amount sufficient to cover the cost of rehabilitating all disturbed areas, and this amount may be adjusted periodically by the DRB.

SECTION 322. ON-SITE SEWAGE DISPOSAL

No Zoning Permit under this Ordinance shall be issued for land development involving the alteration, expansion or installation of sewage disposal systems until the applicant has adequately demonstrated that such proposed system is in compliance with town and state water supply and wastewater standards. This may be accomplished where the applicant has obtained a permit under the Bethel Board of Health Regulations pertaining to Individual Sewage Disposal Systems or a Water Supply or Wastewater Permit from the Vermont Agency of Natural Resources.

SECTION 323. OUTDOOR SIGNS

Purpose Unplanned outdoor signs are detrimental to the scenic resources of Bethel considered vital to the community's economic growth and social culture, are hazardous to highway uses, and can adversely affect property values. For these reasons, it is the purpose of this section to regulate the size, type, number, and location of outdoor signs in the Town.

Signs Requiring a Permit Except for signs necessary for public safety and those signs exempted under this section, no person shall construct, erect, display, or change the location or size of an outdoor sign without first obtaining a Zoning Permit from the Administrative Officer.

Exempt Signs The following signs are not regulated under this Ordinance and do not require a Zoning Permit.

1. On premise non-illuminated signs on a lot, which sign shall not exceed two square feet per side whose sole purpose is to provide direction, instruction, or convenience to the public. (e.g. signs identifying restrooms, freight entrances, parking areas, etc.).
2. Temporary signs, being those signs that announce current events such as retail store sales, garage sales, auctions, church fairs, blood bank collections and polling places, provided that such sign does not exceed 12 square feet in size and is not displayed for a period not to exceed 10 days.
3. Real estate signs, being those signs that announce property for sale, provided that there is no more than one sign per lot and that such sign does not exceed 4 square feet in area.
4. Contractor signs, being those signs that announce that a firm is actively engaged in construction on the property, provided that such sign does not exceed 12 square feet in area and displayed for a period not beyond the time during which construction is being pursued.
5. Open/Closed signs or banners provided that no more than one such sign or banner is located on the lot or per establishment and does not exceed 12 square feet in area.
6. National or State flags or insignia.
7. No trespassing or posted land signs.

General Requirements for All Outdoor Signs

1. All signs, unless official state or town highway traffic control or informational signs, shall be located outside of road right-of-way, unless otherwise approved by the Vermont Agency of Transportation or the Town of Bethel.
2. No sign shall be placed so as to prevent clear and unobstructed views of official signs.
3. Illuminated signs shall be lighted so as not to be directed at neighboring properties or public ways. The intensity of lighting shall not be so bright as to adversely affect the neighborhood and users of motor vehicles.

4. No sign shall be erected off-premises or not on the lot where the activity served by the sign is located.
5. No sign shall be illuminated by a neon, flashing, moving, or intermittent generated light.
6. No sign attached to a building shall extend above the roof line more than 4 feet.
7. The height of a free-standing sign shall not be more than 18 feet above grade level.
8. All signs shall be well-constructed and maintained in good repair.
9. No sign shall be erected, attached, or maintained upon any tree or drawn or painted on any rock or other natural feature or upon any utility pole or town sign post.

Commercial Signs

1. All signs shall be set back at least one-half of the required setback distance for buildings or equal to the existing setback, if the building is a non-complying structure.
2. Projecting signs shall be at least 8 feet above the ground level and not project more than one-half the width of a public walkway.
3. There shall be no more than two affixed, projecting, or freestanding signs per establishment.
4. Sign area maximum per lot shall be determined by multiplying the building front width in feet times .8 feet and shall not exceed the following limits for the district in which it is located;

Village Business District	32 square feet
Village Commercial District	32 square feet
Village Industrial District	32 square feet
Village Residential District	15 square feet
Highway Development District	45 square feet
East Bethel Village District	32 square feet
Medium Density District	24 square feet
Rural Development District	24 square feet
Resource Conservation District	15 square feet

5. Multiple Businesses on one lot shall not exceed twice the maximum for the District.

Home Occupation Signs

Home occupations may have one sign not to exceed 4 square feet in size. Two home occupations within the same dwelling may have a total sign area not more than 6 square feet.

SECTION 324. SPECIAL PUBLIC USE EXCEPTIONS

The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (1) State- or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. s 6606a.

SECTION 325 PONDS OR IMPOUNDMENTS

No pond or impoundment capable of holding less than 35,000 cubic feet of water shall be constructed, enlarged, reconstructed or otherwise enlarged unless approval has been granted by the Administrative Officer. No pond or impoundment capable of holding more than 35,000 cubic feet of water shall be constructed, enlarged, reconstructed, or otherwise enlarged unless approval has been granted by the DRB. In rendering approval, the DRB shall find that the proposed design and construction plans meets acceptable engineering standards and practices as certified by a Vermont licensed engineer. Applications for permits shall include information regarding the location and dimension of the structure, approximate size in cubic feet, and operational procedures.

Any pond or impoundment shall meet with the setback distances for the district in which it is located and not interfere with drainage from town highways.

SECTION 326. WIRELESS TELECOMMUNICATIONS FACILITIES

A. Scope: Wireless telecommunication facilities shall include all wireless telecommunication providers, licensed and/or regulated by the Federal Communications Commission, and associated equipment and buildings.

B. Purpose:

1. The purpose of this section is to preserve the character and appearance of the Town while facilitating the provision of adequate wireless telecommunications services to residents and businesses.
2. Accordingly, this section shall:
 - a. protect the Town's scenic, historic, cultural, aesthetic, and natural resources;
 - b. minimize the undue adverse visual effects of towers and other facilities by providing standards and requirements for the operation, siting, design, appearance, construction, monitoring, modification, and removal of wireless telecommunications facilities and towers;

- c. minimize tower and antenna proliferation by requiring the sharing of existing telecommunications facilities, towers and sites where possible and appropriate;
- d. require the location of towers and antennas away from sensitive natural areas or highly scenic areas.

C. Authority:

1. Pursuant to 24 VSA Section 4401 et seq., the Development Review Board (DRB) is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities.
2. Pursuant to 24 VSA Section 4407, the DRB is authorized to hire qualified persons to conduct independent technical review of applications and to require the applicant to pay all reasonable costs thereof.

D. Exemptions:

1. The following wireless telecommunications facilities are exempt from this section provided the height of such facility does not exceed twenty (20) feet. If the facility exceeds a net increase of twenty (20) feet, a Conditional Use Permit is required:
 - a. amateur radio tower;
 - b. citizens band radio;
 - c. receiving antenna;
 - d. police, fire, ambulance, and other emergency dispatch;
 - e. single use local business radio dispatch;
 - f. repeaters.
2. No other wireless telecommunications facility shall be considered exempt from this Ordinance for any reason whether or not said facility is proposed to share a facility or other structure with such exempt uses.

E. Permitted and Prohibited Locations:

1. Wireless telecommunications towers or facilities of any kind may be permitted as conditional uses in all but the following districts or locations:
 - a. Flood Hazard Area district;
 - b. property listed or eligible for listing on the Federal Historic Register unless predominantly located within an existing building or structure.
2. Freestanding telecommunications towers or antennas should not be located:
 - a. closer than 200 feet to a river, perennial stream, designated wetland, any known archeological site or the habitat of any State listed Rare or Endangered Species;
 - b. within 500 feet from any National Historic Register District or Site or property eligible to be listed on the National Historic Register.

F. Approval Process:

1. **Applicant/Agent:**
 - a. An applicant for a permit must provide a copy of an executed contract to provide land or facilities to such an entity to the Administrative Officer at the time that an application is submitted.
 - b. A permit shall not be granted for a tower or facility to be built on speculation.

2. Conditional Use and Site Plan Approval:

- a. Any construction, alteration, modification (including installation of antennas for new uses), or installation of wireless telecommunications facilities not exempted, whether new (not collocated) or collocated, must first be reviewed under the requirements of this Section by the DRB as a Conditional Use prior to the issuance of a Zoning Permit by the Administrative Officer.
- b. The DRB shall have the authority to impose conditions consistent with the purposes of this Section in approving a proposed facility.
- c. The DRB may suggest exploration of alternative locations for the tower to be evaluated by the applicant if it is determined that the proposed location would result in significant adverse aesthetic impacts.

3. Conditional Use Review – Collocation Requirements:

- a. An application for a new wireless telecommunications facility shall not be approved unless the DRB finds that the new facility cannot be accommodated on an existing or approved tower or structure due to one of the following reasons, as documented by a qualified engineer licensed to practice in Vermont:
 - (1) the proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility;
 - (2) an existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility;
 - (3) the proposed antennas and equipment would cause radio frequency interference (RFI) materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility and such interference cannot be mitigated at a reasonable cost;
 - (4) the proposed antennas and equipment, either alone or together with existing facilities, equipment, or antennas would create excessive radio frequency radiation (RFR) in violation of federal standards or requirements;
 - (5) existing structures cannot accommodate, or be reasonably modified to accommodate, the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably;
 - (6) aesthetic reasons make it unreasonable to locate the planned equipment upon an existing or approved tower or building.
- b. New wireless telecommunications facilities shall be designed structurally, electrically, and in all other respects to accommodate future placement of antennas upon the tower and to accept additional antennas mounted at varying heights when overall permitted height allows.

3. Conditional Use – Design Criteria:

- a. Prior to granting Conditional Use approval, the DRB shall make affirmative findings for each of the following criteria in addition to the other applicable provisions set forth in this section and Section 601 (Conditional Uses):
 - (1) Height / Mass:
 - (a) The height/mass of facilities shall not exceed that which is essential for the intended use, that which protects the public safety, and that which preserves the scenic character and appearance of the area.

- (b) The height limit for towers, antennas and tower-related fixtures shall not exceed twenty (20) feet above the average height of the tree line within one hundred fifty (150) feet of the base of the facility.
 - (c) Notwithstanding the above, an additional height not to exceed twenty (20) feet may be approved upon a finding by the DRB as part of the conditional use review, that the additional height is necessary in order to provide adequate coverage, or to accomplish collocation, and that the additional height will not have a significant adverse visual impact on the scenic character or appearance of the area.
 - (d) In the event that an existing structure other than a wireless telecommunications tower (e.g., silo) is proposed as the mount for the facility, the height of that structure shall not be increased by more than ten (10) feet above the highest point of a flat or mansard roof –or- ten (10) feet above the midpoint of other roofs unless the facility is completely concealed (e.g., in a chimney, steeple, flagpole). The increase in height of the structure shall be in scale and proportionality to the structure as originally configured.
- (2) Color / Materials / Glare: Towers, antennas, and any necessary support buildings or structures shall be designed to blend into the surrounding environment.
- (3) Lighting / Marking:
- (a) Unless required by the Federal Aviation Administration (FAA), no lighting of towers is permitted;
 - (b) In any case where the tower is determined to need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications;
 - (c) Copies of required FAA applications shall be submitted by the applicant;
 - (d) To eliminate the need for lighting, heights may be reduced or another location selected;
 - (e) Emergency, safety, or security lighting may be utilized when people are on site, but limited to lighting that is directed downward towards the facility, shielded and away from neighboring properties. All such lighting shall be extinguished when no one is present.
- (4) Signage:
- (a) No commercial signs or lettering shall be placed on a tower or facility;
 - (b) Signage shall be limited to that required by federal or state regulation.
- (5) Screening:
- (a) All facilities shall be designed to blend into the surrounding environment through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.
 - (i) Such screening shall be protected by a landscape easement or be within the area of the provider’s lease;
 - (ii) The easement or lease shall specify that the trees within the setback shall be maintained and shall not be removed or trimmed, unless dead or dying and present a hazard to persons or property; or approval is granted by the DRB.
- b. Aesthetic Impact:
- (1) Towers, antennas, and any necessary support structures, including utility or service lines, shall be designed and located to prevent disruption to the scenic

character or beauty of the area and to avoid creating undue adverse aesthetic impact on prominent ridgelines, hilltops, trails, view corridors.

(2) In determining whether a facility's aesthetic impact would be unduly adverse, the DRB will consider:

- (a) the amount of time and the time of year during which the proposed facility would be viewed by the traveling public on a public highway, public trail, or public water body;
- (b) the frequency of the view experienced by the traveling public;
- (c) the degree to which the proposed facility is screened by existing vegetation, the topography of the land, and existing structures;
- (d) background features in the line of sight, from all angles of view, to the proposed facility that obscure the facility or make it more conspicuous;
- (e) the distance of the proposed facility from key vantage points and the proportion of the facility that will be visible above the skyline or tree line;
- (f) the sensitivity or unique value of a particular view affected by the proposed tower;
- (g) the number of travelers and residents of Bethel and neighboring towns who will be affected by the alteration to the scenic character of the area.

4. **Site Plan Criteria:** The following shall be reviewed in addition to aforementioned Design Criteria and Section 604 (Site Plan Approval).

a. **Setbacks:**

(1) All towers, buildings and structures accessory to a tower (except for electric power poles where specifically exempted by the DRB) shall:

(a) meet the minimum setback requirements of the underlying Zoning District – or-

(b) be set back one hundred five percent (105%) of its height from all property lines, whichever is greater.

(2) the 105% setback may be satisfied by including the areas outside the property boundaries if secured by an easement;

(3) the easement shall be shown in site plans and the terms of the easement shall be provided as part of the application materials.

b. **Fencing:** Where deemed necessary by the DRB, a new wireless telecommunications facility shall be fenced to discourage trespass.

c. **Access Roads and above Ground Facilities:** Where the construction of new wireless telecommunications towers and facilities requires construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land, and be constructed or improved within forest or forest fringe areas, and not in open fields.

G. Application Requirements: In addition to Section 600 (Zoning Permit Requirements), the applicant shall provide the following:

1. Applicant / Agent:

a. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office.

b. If the applicant is not a person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.

2. **Contact:** The name(s), address(es), fax/telephone numbers and email addresses of the persons authorized to act in the event of an emergency regarding the structure or safety of the facility.
3. **Abutters:**
 - a. the names and addresses of the record owners of all abutting property.
 - b. If the proposed facility might be visible from parcels in a neighboring community, the names and addresses of the neighboring Planning Commission and Regional Planning Commission must also be provided.
4. **Location Map:** Using the most recent United States Geological Survey Quadrangle map, show the area within a three mile radius of the proposed facility site: indicate facility location, property lines of facility parcel, and all easements / rights-of-way needed for access from a public way to the facility.
5. **Vicinity Map:** Show the surrounding area within a 2,500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites, and habitats for endangered species.
6. **Site Plan:** Drawn to a scale no smaller than one (1) inch equals fifty (50) feet, indicating:
 - a. the approximate average height of existing vegetation within 200 feet of the facility base, and
 - b. all proposed improvements including landscaping, utility lines, guy wires, screening and roads.
7. **Elevations:** Showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
8. **Computer-generated Photo Simulations:**
 - a. show the proposed facility from all public rights-of-way and any adjacent property from which it may be visible.
 - b. each photo must be labeled with the line of sight and elevation, and have the date taken imprinted on the photograph.
 - c. photos must show the color of the facility and method of screening.
9. **Sequence and Schedule** for completion of each phase of the entire project.
10. **Right-of-way and Easement Agreements**, if applicable.
11. **Report:** a report prepared by qualified engineers that:
 - a. Describes the facility height, design and elevation. [Structural Engineer]
 - b. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a wireless telecommunications tower or facility and the minimum separation distances between antennas. [Radio Frequency (RF) Engineer]
 - c. Describes the tower's proposed capacity, including the number, height, and type(s) of antennas the tower is expected to accommodate. [Structural Engineer]
 - d. Demonstrates that existing wireless telecommunications sites and structures, or other structures proposed by the applicant within five (5) miles of the proposed site cannot reasonably provide adequate coverage and adequate capacity. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow an independent reviewer to verify that other locations will not be suitable.

- e. Demonstrates that the applicant has analyzed the feasibility of using ‘repeaters’ or microcells in conjunction with all facility sites listed to provide coverage to the intended service area.
 - f. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
 - g. Describes the output frequency, number of channels, sector orientation, and power output per channel, as appropriate for each proposed antenna.
 - h. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs, if applicable, as well as plans for additional development and coverage within the Town.
 - i. Demonstrates the tower’s compliance with current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled ‘Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.’
 - j. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure. The Town may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times, at the applicant’s expense. [24 V.S.A.4407]
 - k. Includes the structural engineers’ stamp and registration numbers and credentials of radio frequency engineers.
 - l. Includes a Letter of Intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.
 - m. For a facility to be installed on an existing structure, a copy of the applicant’s executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).
 - n. To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
 - o. Copy of the application or draft application for an Act 250 permit, if applicable.
 - p. Any other information considered necessary by the DRB to evaluate the request.
- 12. Expense Reimbursement:** No permit for a wireless telecommunications facility shall be issued prior to reimbursement to the Town for all expenses relating to an application (including but not limited to, independent technical review, legal transcription fees).

H. Facility Removal: Abandoned, unused, obsolete, or non-compliant facilities shall be removed as follows:

1. Declaration of Use:

- a. The owner of a facility shall annually, by January 15, file a declaration with the Administrative Officer certifying the continuing safe operation of every facility installed subject to these regulations.
- b. Failure to file a declaration shall mean that the facility is no longer in use and considered abandoned.

2. Removal:

- a. Facilities which are constructed in violation of permit conditions or application representations and facilities deemed to be abandoned or unused shall be removed

within 180 days of cessation of operations at the site unless a time extension is approved by the DRB.

- b. In the event the tower or facility is not removed within 180 days of the cessation of operations at a site, the Town shall notify the owner and may remove the tower or facilities.
- c. Costs of removal shall be assessed against the permittees or landowners.
- d. Applicant shall, as a condition of the Conditional Use approval, provide a financial surety bond payable to the Town and acceptable to the DRB to cover the cost of removal of the facility and remediation of the landscape.

I. Maintenance Requirements:

1. The permittees shall maintain all facilities. Maintenance shall include, but not be limited to, painting, structural integrity, and landscaping.
2. In the event the permittees fail to maintain the facility, the Town may undertake such maintenance at the expense of the permittees or landowners.

J. Insurance Requirements:

1. The facility owner/permittees shall maintain adequate liability insurance on all facilities.
2. In no event shall such liability insurance be less than five million dollars.

K. Consultant Fee: In addition to application / review fees, the Applicant shall be charged the reasonable cost of independent technical assessment(s) incurred during the review and permitting process.

Definitions Related To Wireless Communications Facilities

Adequate Capacity - Capacity for wireless telephony is considered to be "adequate" if the grade of service ("GOS") is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the landline or radio portions of a wireless network, Adequate Capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, Adequate Capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

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

Affiliate - When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control

with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

Alternative Design Tower Structure - Artificial trees, clock towers, bell steeples, light poles, silos and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also Stealth Facility).

Antenna - A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

Antenna Height - The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna Support Structure - Any pole, telescoping mast, tower tripod, or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

Applicant - A person who applies for a telecommunications facility siting. An applicant can be the telecommunications service provider with the owner's written permission (or other legally designated representative) or the owner of the property.

Available Space - The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electro magnetically able to be attached.

Base Station - The primary sending and receiving site in a telecommunications facility network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

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

Cell Site - A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with and ancillary to cellular communications transmission.

Cellular Service - A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

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

Cellular Telecommunications Facility - Consists of the equipment and structures at a particular site involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Channel - The segment of the radiation spectrum to or from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.

Collocation - Locating wireless communications equipment from more than one provider on a single site.

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

Communication Equipment Shelter - A structure located at a base station designed principally to enclose equipment used in connection with telecommunications transmissions.

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

Communications Facility - A land facility supporting antennas and/or microwave dishes that sends and/or receives radio frequency signals. Communications facilities may include structures, towers or accessory buildings.

dBm - Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

Directional Antenna - An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Dish Antenna - A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

Facility - Facility includes all buildings and structures that are presented as part of the application.

Facility Site - A property, or any part thereof, which is owned or leased by one or more telecommunications facility(s) and where required landscaping is located.

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

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

GHz - Gigahertz. One billion hertz

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

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

MHz - Megahertz, or one million hertz.

Micro-Cell - A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

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

Monitoring - The measurement, by the use of instruments in the field, of radio frequency exposure from telecommunications facilities, towers, antennas or repeaters.

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

Omnidirectional Antenna - An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed.

Permit - Embodies the rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its facility within the boundaries of the municipality.

Personal Communications Services or PCS - Digital wireless telephone technology using higher frequency spectrum than cellular.

Personal Wireless Services - Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

Pre-existing Towers and Antennas - Any tower or antenna for which a permit has been issued prior to the effective date of these regulations.

Radiated-Signal Propagation Studies or Coverage Plots - Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tools for determining a need and whether the telecommunications equipment will provide adequate coverage for that site.

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

Roof and/or Building Mount Facility - A facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or a building face.

Self Supporting Tower - A communications tower that is constructed without guy wires.

Spectrum - Relating to any transmissions or reception of electromagnetic waves.

Stealth Facility - Any communications facility that is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings. (See also Alternative Design Tower Structure.)

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

System - The communications transmission system operated by a telecommunications service provider in the municipality or region.

Telecommunications Facility - All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves which carry their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

Telecommunications Provider - An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Temporary Wireless Communication Facility - Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference.

Tower - A vertical structure for antenna(s) that provide telecommunications services.

Whip Antenna - A vertical antenna that normally transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape, narrow (less than 6 inches in diameter) and long (often measure 18 inches in height or more).

SECTION 327. AFFORDABLE HOUSING

The following provisions are enacted for the purpose of encouraging affordable housing while ensuring compliance with this Ordinance.

1. The DRB is authorized to modify or reduce setback distances and frontage requirements for long-term affordable housing projects upon determination that the resulting lot configuration results in retaining or enhancing the character of the neighborhood. In rendering its decision, the DRB shall take into consideration the design and location of the housing project.
2. Permanent or perpetual affordable housing projects are eligible for an increase in 25% density above the standard lot area requirements for the District upon review and approval by the Board.
3. Mixed use development incorporating affordable housing (e.g. use of upper stories of buildings for rental units) shall not be subject to lot area calculations under this Ordinance.

SECTION 328. ~~DETACHED HOUSING~~ [SEE SECTION 330]

SECTION 329. RESIDENTIAL CARE AND GROUP HOMES

A residential care or group home serving not more than eight persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a single family residence, provided that no such home shall be located within 1000 feet of another such home.

SECTION 330. ACCESSORY DWELLINGS

1. Accessory Apartments

Notwithstanding other requirements of this Ordinance and pursuant to 24 VSA Section 4412 (E) & (F), accessory apartments shall be enabled in all Districts where single-family dwellings are permitted. An accessory apartment shall meet the following requirements:

- a. An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation and sanitation;
- b. the property has sufficient wastewater capacity;
- c. floor space is limited to 30 percent of the total habitable floor area of the single family dwelling and
- d. Applicable setback, coverage, and parking requirements specified by this Ordinance are met.

2. Detached Housing

A detached house (e.g. caretaker's house) on the same lot as the principal residence is permitted provided that the living area does not exceed 1500 square feet or 50% of the principal residence, whichever is greater. A detached house shall not be subdivided from the lot containing the principal residence unless the resulting lots meet with area and dimensional standards for the District. No detached house may be constructed on a lot unless the lot area exceeds twice the minimum lot area for the District in which the principal residence is located.

SECTION 331. EQUAL TREATMENT OF HOUSING

This Ordinance shall not have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing, except on the same terms and conditions as conventional housing is excluded.

SECTION 332. CHILD CARE FACILITIES

A state registered day care facility or licensed family care home serving six or fewer full-time and four part-time children shall be considered by right to constitute an accessory use to a dwelling and is exempt from local review. Notwithstanding, a certified letter of approval from the Vermont Agency of Human Services shall be filed with the Administrative Officer.

A state registered day care facility or licensed family care home serving more than six full-time and four part-time children shall require Conditional Use Approval and Site Plan Approval from the DRB.

A day care facility or family care home is defined under 33 VSA Section 4902 (3) (A).

SECTION 333. AGRICULTURE, FARMING, AND FORESTRY

In accordance with state law (24 VSA Section 4495), this Ordinance shall not restrict accepted agricultural practices, or accepted silvicultural practices.-[See previous Section 230 – ‘Use Categories’ – for definition of agriculture.]

SECTION 334. DIVISION OF LOTS AND MINOR SUBDIVISIONS

The division of any parcel existing on the date of adoption of this section into more than two lots is major subdivision and will require Subdivision Approval by the DRB under the Bethel Subdivision Regulations.

However, a minor subdivision shall be subject to review under this Ordinance. A minor subdivision is the subsequent division of a parcel existing on the date of adoption of this section into two parcels or an amendment, revision, or modification to a plat recorded in the Bethel Land Records which creates no more than one additional lot within the bounds of the original parcel. Applicants for a minor subdivision shall file an application with the Zoning Administrator on forms available from the Town Office. An application for a minor subdivision shall be approved by the Zoning Administrator upon:

1. Receipt of a completed application form with supporting documentation from the owner, including descriptions and locations of any existing or proposed rights-of-way, any easements, reference to the Book and Page Number(s) from the Town Land Records describing the parcel involved and a subdivision map depicting the boundaries of the proposed minor subdivision; and
2. Determination that the proposed minor subdivision meets with the applicable land, area, and structural requirements for the district in which it is located, and any other applicable dimensional standards as set forth in this Ordinance.

Issuance of a Zoning Permit shall serve as evidence by the Town that the subdivision is in compliance with this Ordinance. Notwithstanding, within 90 days of approval by the Administrator, the applicant/owner shall submit for recording with the Bethel Town Clerk a minor subdivision map. Such map shall be stamped “Approved By the Town of Bethel as a Minor Subdivision Only.” Furthermore, the date of such approval shall be referenced on the map. Failure to record such map within the prescribed period shall invalidate approval of the minor subdivision.

SECTION 335. BUFFER STRIPS

In cases where a commercial or industrial use abuts a residential district, with the exception of access points or drives, a buffer strip of land not less than 10 feet in depth shall be maintained along the common boundary. The buffer shall be used and maintained only as fence or area for planting trees, shrubs, flowers, or similar property enhancements to mitigate undue adverse visual impacts which would exist between dissimilar uses.

ARTICLE 4: NONCONFORMING USES, LOTS AND STRUCTURES

SECTION 400. APPLICATION

The following provisions shall apply to all uses, lots, and structures existing on the effective date of this Ordinance or amendments thereto which do not conform to all applicable zoning requirements or which, in the future, do not conform by reason of subsequent amendments to this Ordinance.

SECTION 401. NONCONFORMING USES

A nonconforming use of land or structures may be continued indefinitely, subject to the following limitations:

1. Such use shall not be significantly altered or enlarged in any way which would increase its nonconformity.
2. Such use shall not be changed to another nonconforming use without approval by the DRB, and then only to a use which, in the opinion of the DRB, is of the same or a more restricted nature.
3. Such use shall not be re-established if such use has been abandoned or discontinued for a period of one (1) year, or has been changed to or replaced by a nonconforming use. Intent to resume a nonconforming use shall not confer a right to do so.
4. Shall not be restored for other than a conforming use after damage from any cause, unless the nonconforming use is reinstated within one year of the damage; if the restoration of such building is not completed within one (1) year, the nonconforming use of such building shall be deemed to have been discontinued unless such nonconforming use is carried on without interruption in the undamaged part of the building.

SECTION 402. EXISTING SMALL LOTS

Any lot in individual, non-affiliated, and separate ownership from surrounding properties and in existence on the effective date of this Ordinance may be developed in conformance with other applicable zoning regulations even though the lot does not meet minimum lot size and dimension requirements, provided such lot is not less than one eighth (1/8) acre in area with a width or depth dimension of not less than forty (40) feet.

If such lot subsequently comes under common ownership with one or more contiguous lots, the lot shall be deemed merged with the contiguous lot for the purposes of this section. However, such lot shall not be deemed merged and may be separately conveyed, if:

1. the lots are conveyed in their pre-existing, nonconforming configuration; and
2. on the effective date of this Ordinance, each lot had been developed with a water supply and wastewater system; and
3. at the time of the transfer, each water supply and wastewater system is functioning in an acceptable manner; and
4. deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater disposal systems in case a wastewater system fails to function as defined under 24 V.S.A. Section 4406 (1) (a) (iv).

If subsequent to a separate conveyance as authorized above, a wastewater system fails, the owner shall be required to obtain from the Agency of Natural Resources, a wastewater permit or a certification that the system has been modified or replaced with the result that it no longer constitutes a failed system. The owner shall file a copy of such wastewater permit or certification with the Administrative Officer.

SECTION 403. NONCOMPLYING STRUCTURES

A non-complying structure may continue indefinitely, subject to the following limitations:

1. Such structure shall not be altered or enlarged in any way which would increase its nonconformity.
2. Such structure, if damaged or destroyed, shall not be restored unless such restoration takes place within one year or unless restoration results in the discontinuance of the structure's nonconformity.

SECTION 404. MAINTENANCE AND REPAIR

Nothing in this article shall be deemed to prevent the normal maintenance and repair of a non-complying structure or a structure containing a nonconforming use, provided such action does not increase the nonconformity.

ARTICLE 5: ADMINISTRATION AND ENFORCEMENT

SECTION 500. APPOINTMENT OF ADMINISTRATIVE OFFICER

The Administrative Officer shall be nominated by the Planning Commission and shall be appointed by the Select Board for a term of three years. The Administrative Officer may hold any other office in the municipality other than membership in the Board of Adjustment or Development Review Board. The Administrative Officer shall administer this Ordinance literally and shall not have the power to permit any land development which is not in conformance with this Ordinance. The Administrative Officer may be removed for cause at any time by the Select Board after consultation with the Planning Commission.

SECTION 501. ACTING ADMINISTRATIVE OFFICER

The Planning Commission may nominate, and the Select Board appoint, an Acting Administrative Officer who shall have the same duties and responsibilities as the Administrative Officer in his or her absence.

SECTION 502. DUTIES OF THE ADMINISTRATIVE OFFICER

The Administrative Officer shall have the following powers and duties:

1. To receive applications for and to issue or deny Zoning Permits and refer appropriate matters to the Development Review Board.
2. To promptly refer to the DRB any site plan map and supporting data, where site plan approval is required by Section 604 hereof. No permit shall be issued until such approval is given.
3. To post and give notice of the issuance of Zoning Permits, pursuant to 'Public Notice' as found in Definitions of this Ordinance.
4. To issue Zoning Permits following approval by the DRB of conditional use applications, approval of appeals for variances, or approval of applications for development of a steep slope, or approval of applications for development within a wellhead protection area, or approval of applications for development within a flood hazard overlay district.
5. To conduct inspections of buildings and uses of land or buildings to determine compliance with the terms of this Ordinance and with the terms and conditions of permits previously issued. For this purpose, the Administrative Officer shall have the right to enter upon any premises at any reasonable time.
6. To issue to an offender, notices of violations of this Ordinance pursuant to Section 506 of this Ordinance.
7. To institute legal proceeding in the name of the Town. To collect fines for penalties for violations of this Ordinance pursuant to Section 4444 of the act; and to prevent or abate any act, use or condition which violates or threatens to violate the terms of this Ordinance, pursuant to Section 4445 of the Act.
8. To maintain at the Bethel Municipal Offices current records of the Ordinance, amendments, the zoning map, all zoning permits and pending appeals.

9. To deliver the original or copy of any permits issued, notices of violation, or notice of permits to the Town Clerk for recording pursuant to 24 V.S.A. Sections 1154(a). and 4443 (c).

SECTION 503. ESTABLISHMENT OF DEVELOPMENT REVIEW BOARD (DRB)

There is hereby established a Development Review Board. The Select Board shall appoint the members of said board. The number of members, not less than five (5) nor more than nine (9), and their terms of office, shall be determined by the Select Board. Vacancies shall be filled by the Select Board for any un-expired term and upon the expiration of such terms. Any member of the DRB may be removed for cause by the Select Board upon written charges and public hearing.

SECTION 504. POWERS OF THE DEVELOPMENT REVIEW BOARD

The DRB shall have the following powers, in addition to those specifically provided for elsewhere in this Ordinance.

1. To hear and decide appeals where it is alleged that an error has been committed in any order, requirement, decision or determination made by an Administrative Officer in connection with the enforcement of this Ordinance.
2. To hear and grant or deny a request for a variance.
3. To hear and grant or deny a request for Conditional Use Approval.
4. To hear and grant or deny requests for: development of a steep slope, development within a wellhead protection area, or development within a flood hazard overlay district.
5. Site Plan Approval; and
6. Right-of-way access.

SECTION 505. PROCEDURES OF THE DEVELOPMENT REVIEW BOARD

1. The DRB shall elect its own officers and establish rules of procedure consistent with this section and applicable provisions of this Ordinance. All meetings shall be open to the public. In any hearing, there shall be an opportunity for each person wishing to achieve status as an interested person under subsection 4465(b) of 24 VSA to demonstrate that the criteria set forth in that subsection are met, and the panel shall keep a written record of the name, address, and participation of each of these persons. The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Bethel municipal building as a public record. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the DRB, and any action thereof shall be taken by the concurrence of a majority of the full DRB.
2. Fees for the filing of notices of appeal and other acts shall be set by the Select Board. The payment of such fees shall be a condition for the validity of such filing or act.
3. In connection with any proceedings under this Ordinance, the DRB may examine or cause to be examined any property, maps, books or records bearing upon matters concerned in such proceedings; may require the attendance of any persons having knowledge of the premises; may take testimony and require proof material for its information, and may

administer oaths or take acknowledgment in respect of such matters. Any of the powers herein granted the DRB may be delegated to its specifically authorized agent or representative.

SECTION 506. ENFORCEMENT

Penalties: Any person who violates this Ordinance shall be fined not more than one hundred dollars for each offense. No action may be brought nor fine imposed until the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. 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 12 months. In default of payment of fine such person shall pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected shall be paid over to the Town of Bethel.

Violations of this Ordinance shall be regulated as prescribed in 24VSA, Sections 4451, 4452, and 4454. In the case of violations in the Flood Hazard Overlay District, notices of violation shall also state that failure to cure may result in loss of flood insurance. In cases of violations within the FHOD, notice shall also be sent to the state NFIP Coordinator and the Administrator of the National Flood Insurance Program. 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 notice 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.

Remedies: The Administrative Officer shall institute in the name of the Town any appropriate action, injunction, or other proceeding to prevent, restrain, correct or abate any land use or construction that constitutes a violation of this Ordinance.

ARTICLE 6: PERMITS, VARIANCES, SITE DEVELOPMENT PLAN APPROVAL AND APPEALS

SECTION 600. ZONING PERMIT REQUIREMENTS

Applications for Zoning Permits: Application for a Zoning Permit shall be made on a form adopted by the Select Board. The applicant shall certify the completed application as correct. Applications, other than applications requiring site plan approval, shall be accompanied by a sketch plan showing the dimensions of the subject property, the size and location of existing and proposed buildings, and other improvements, a surveyor's plot plan of property, if available, and such other information as may be necessary to facilitate the administration and enforcement of the Ordinance. The Select Board shall establish a reasonable fee for a Zoning Permit which must be submitted with the application.

Issuance of Permit: The Administrative Officer shall not issue a Zoning Permit unless an application, fee, plot plan and any other approvals required by this Ordinance have been properly submitted. The Administrative Officer shall, within 30 days of submission of application, data and approvals, either issue or deny a Zoning Permit. If denied, the Administrative Officer shall so notify the applicant in writing stating his reasons therefore. If the Zoning Permit is approved, all activities authorized by its issuance shall be completed within two (2) years of its date of issue, or the Zoning Permit shall become null and void and re-application to complete any activities shall be required. Each Zoning Permit issued under this section shall contain a statement of the period of time within which an appeal may be taken. Within three (3) days following the issuance of a Zoning Permit, the Administrative Officer shall:

1. Deliver a copy of the Permit to the Listers of the Town; and
2. Post a copy of the Permit in at least one public place in the Town until the expiration of fifteen (15) days from the date of issuance of the permit.

Effective Date of Permit: No Zoning Permit shall take effect until the time for appeal has passed or in the event that a notice of appeal is filed properly, such permit shall not take effect until final adjudication of said appeal.

Failure of Administrative Officer to Act: If the Administrative Officer fails to act with regard to an application for a permit within thirty (30) days, a permit shall be deemed issued on the 31st day.

Permits Applied for During Bylaw Amendment Period: If a public notice for a first public hearing pursuant to subsection 4442(a) of Title 24 is issued under Chapter 117 by the local legislative body with respect to the adoption or amendment of a bylaw, or an amendment to an ordinance adopted under prior enabling laws, the administrative officer, for a period of 150 days following that notice shall review any new application filed after the date of the notice under the proposed bylaw or amendment and applicable existing bylaws and ordinances. 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 existing bylaws and ordinances. An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing bylaws and

ordinances upon request of the applicant. Any determination by the administrative officer under this section shall be subject to appeal as provided in section 4465 of Title 24 Chapter 117.

Recording Requirements Any Zoning Permit, Notice of Decision for Conditional Use, Site Plan, or Variance, Notice of Violation, local Sewage Permit, or similar instrument or notice of same shall be recorded in the Bethel Land Records as provided for in 24 VSA Section 1154(a). Such records shall be open to inspection. Within 30 days following any of the actions referenced in this section, the Administrative Officer, DRB or Board of Health shall deliver a copy of the respective decision, certificate, or action to the Town Clerk for recording.

SECTION 601. CONDITIONAL USES

No Zoning Permit shall be issued by the Administrative Officer for any use or structure identified as a conditional use in the district where the proposed development is to occur until the DRB grants approval. The DRB will approve an application only upon findings that the proposed conditional use will conform to specific requirements prescribed by this Ordinance and that it will not unduly adversely impact:

1. The capacity of existing or planned community facilities;
2. The character of the area in which it would be located;
3. Traffic on roads and highways in the vicinity; and
4. Any by-laws of the Town then in effect.

In the case of proposed commercial development that is a conditional use, the DRB, in addition to the above criteria, shall grant approval only on findings that the proposed development conforms to the above requirements and does not have an undue adverse effect on:

1. The tax base of the Town or
2. The efficient utilization of existing structures and public services.

In granting such conditional use approval, the DRB may attach such reasonable conditions as it deems necessary to implement this Ordinance. The DRB shall hold a public hearing upon public notice on the application and shall act to approve or disapprove the application within thirty (30) days after the final public hearing. Failure to act within such period shall be deemed approval.

The Administrative Officer shall promptly issue a Zoning Permit for any conditional use application approved by the DRB.

SECTION 602. APPEALS

Any action to appeal a decision or act of the Administrative Officer or the Development Review Board shall be in accord with the provision of 24 VSA Sections 4464 –4473. Persons contemplating an appeal are advised to consult these sections for precise statutory procedures and requirements. Below is a general overview of appeal procedures.

Notice of Appeal. Requirements for notice include:

- Name and address of appellant,
- A brief description of the property,
- Reference to regulatory provisions applicable to appeal,
- Relief requested by appellant, and
- Alleged grounds for the appeal.

Time of Appeal: An interested person may appeal any decision or act of the Administrative Officer by filing a written notice of appeal with the DRB within 15 days of the date of such decision or act. A copy of notice of appeal shall be concurrently filed with the Administrative Officer. An interested person may appeal a decision of the DRB to the Environmental Board within thirty (30) days.

Who May Appeal: For the purposes of this section, interested person shall include:

1. A person owning property 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;
2. The Town of Bethel or any adjoining municipality;
3. A property owner adjacent to the property which is the subject of the decision or act;
4. Persons owning property or occupying property in the immediate neighborhood of the subject property, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who allege that the act or decision if confirmed, is not in accord with the policies, purposes, or terms of the bylaw or Town Plan,
5. Any ten persons who may be any combination of voters or real property owners within the town who, by signed petition to the appropriate municipal panel, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes or terms of the Town Plan or bylaw. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
6. Any State agency with an interest in property within the Town of Bethel and the Agency of Development and Community Affairs.

Hearing on Appeal: The DRB shall set a date and place for a public hearing on an appeal which shall be within sixty (60) days of the filing of the notice of appeal according to the above procedures.

Decisions on Appeal: The DRB shall render its decision, which shall include findings of fact, within forty-five (45) days after completing the hearing and shall within that period send to the appellant, 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 DRB shall be deemed to have rendered a decision in favor of the appellant.

Decision Without Hearing: The DRB may reject an appeal without hearing and render a decision, including findings of fact, within ten (10) days of the filing of a notice of appeal if the DRB considers the issues raised by the appellant have been decided in an earlier appeal based upon substantially or materially the same facts by or on behalf of that appellant.

SECTION 603. VARIANCES

Appeals for Variance: Upon appeal under Section 602 of this Ordinance, a variance from any provisions of this Ordinance may be permitted by approval of the DRB after public notice and public hearing and after a finding that special or unique conditions or circumstances relating to a particular property exist and that a strict or literal enforcement of this Ordinance would result in unnecessary or undue hardship.

General Standards for Granting Variances: The DRB pursuant to the requirements of the Act may approve a variance and render a decision in favor of an appellant only if all the following conditions are found by the DRB to be present and such finding is specified in its decision:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this ordinance in the district in which the property is located;
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of variance is therefore necessary to enable the reasonable use of the property;
3. That such unnecessary hardship has not been created by that appellant;
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of this ordinance.

Conditions On Approval: In rendering a decision in favor of an appellant, the DRB may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the purposes of this Ordinance.

SECTION 604. SITE PLAN APPROVAL

When Site Plan Approval is Required: The Administrative Officer shall not issue a Zoning Permit for any use or structure, except for one-family and two-family dwellings, agricultural uses and accessory uses, until the DRB grants site plan approval.

Application for Site Plan Approval: Every applicant for a Zoning Permit for a use, other than those specifically excluded above, shall submit along with the permit application two sets of the site plan maps and supporting data which shall include the following information:

1. Name and address of the owner of record, and the name (s) and address (s) of the owner (s) of adjoining lands. Name and address of person or firm preparing map. Scale of map, north point and date.

2. Survey of property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.
3. Site plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
4. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.

Standards for Approval of Site Plan: The DRB shall review the site plan map and supporting data before approval, approval with stated conditions, or disapproval is given and shall take into consideration only the following objectives:

1. Maximum safety of vehicular circulation between the site and the street network. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to efforts to minimize curb cuts, to pedestrian safety and convenience, and to access in case of an emergency,
2. Adequacy of circulation, parking and loading facilities. Particular consideration shall be given to the items in (1) above and effect of noise, glare, or odors on adjoining properties. Refuse and service areas should be included in this consideration.
3. Adequacy of landscaping, screening and setbacks with regard to achieving maximum compatibility with and providing protection to adjacent property. Particular consideration shall be given to preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties and the adequacy of materials to meet seasonal conditions, soil conditions and light on the site.
4. Decision by Development Review Board: The DRB shall act to approve or disapprove such site plan within forty-five days after the date upon which it receives the proposed plan, and failure to so act within such period shall be deemed approval.

ARTICLE 7: PLANNED UNIT DEVELOPMENTS, MOBILE HOME PARKS AND TRAVEL TRAILER PARKS

SECTION 700. PLANNED UNIT DEVELOPMENTS

For the purpose of encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, facilitating the adequate and economic provision of streets and utilities, preserving the natural and scenic qualities of open land, providing for a mixture of housing types at different densities and providing for the development of existing lots which because of physical, topographical, or geological conditions could not otherwise be developed, the DRB may approve Planned Unit Development (PUD) which do not conform to the district requirements of the districts where they are located. Where such approval is given, the DRB will follow the procedures set forth below:

Application Procedure: Every applicant for a zoning permit for a PUD shall submit all materials required by Section 604 above. In addition, the site plan map shall show the location, height and spacing of all buildings or structures, and any unique natural or man made features of the site. The site plan map shall be accompanied by a statement setting forth the nature and extent of any deviations from the existing district zoning regulations.

General Standards for Review: In addition to the standards set forth in Section 604 above, the following general standards must be met in order for the DRB to approve an application for a PUD:

1. The PUD is consistent with the Bethel Town Plan.
2. The overall density of the project will not exceed the number of dwelling units or other uses which could be permitted in the DRB judgment, if the land were subdivided into lots in accordance with district regulations.
3. The PUD must be an effective and unified treatment of the development possibilities on the project site, and the development plan must provide for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural and man-made features.
4. The development plan will be phased over a reasonable period of time in order that adequate municipal facilities and services can be provided.
5. The mixed uses in a PUD must be arranged so as to be compatible and insure visual and rural privacy for residents of the project and adjacent property.

Specific Standards for Review: The following specific standards shall be met prior to approval of an application:

1. To insure adequate privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter shall meet district set back requirements and screening may be required.
2. Adequate water and sewage disposal facilities shall be provided.

Permitted and Conditional Uses: Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

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

Decision of Development Review Board and Public Hearing: In granting approval for a PUD, the DRB may attach such reasonable conditions, in addition to those allowed above, as it deems necessary to implement this Ordinance. The DRB shall hold a public hearing upon notice on the application and shall act to approve or disapprove the application within forty-five days after the final public hearing. Failure to act within such period shall be deemed approval.

SECTION 701. MOBILE HOME PARKS

It is the purpose of this section to provide for the location of mobile home parks in areas suitable for residential use while attempting to achieve maximum compatibility with adjacent property, adequate provision of municipal services and proper use of available land. The administrative officer shall not issue a zoning permit for a mobile home park except on approval of the DRB granted in compliance with the procedures set forth below.

Application Procedure: Every applicant for a zoning permit for a mobile home park shall submit all materials and information required by Section 604 above. In addition, the site plan map shall show the location of all proposed mobile home sites and common open space. The site plan map shall be accompanied by a statement describing the services and facilities that the applicant will provide residents of the park.

Location of Mobile Home Parks: Subject to approval under this section, mobile home parks shall be allowed in the Town in all districts where 1 and 2 family residences are allowed, provided that the overall density of the park does not exceed the density that would be allowed if each mobile home were treated as a separate single family residence. Mobile home parks shall also be allowed, subject to approval under this section, in the districts specified below where the stated density and area requirements are met.

1. Village Residential district: Overall park density must not exceed one mobile home per 8,000 square feet and minimum park size must not be less than 24,000 square feet.
2. East Bethel Village District: Overall park density must not exceed one mobile home per 20,000 square feet and minimum park size must not be less than 60,000 square feet.
3. Highway Commercial District: Overall park density must not exceed one mobile home per acre and minimum park size must not be less than two acres.
4. Medium Density Development District: Overall park density must not exceed one mobile home per two (2) acres and minimum park size must not be less than six acres.

General Standards for Review: In addition to the standards set forth in Section 605(c), the following general standards must be met in order for the DRB to approve an application for a mobile home park:

1. The mobile home park must be consistent with the Bethel Town Plan.

2. The mobile home park must be an effective and unified treatment of the development possibilities on the project site, and the development plan must provide for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas and unique natural and man-made features.
3. The development will be phased over a reasonable period of time in order that adequate municipal facilities and services can be provided.

Specific Standards for Review: The following specific standards shall be met prior to approval of an application:

1. The DRB shall take into consideration the objectives discussed in Section 604, Standards for Site Plan Approval.
2. A minimum of 8,000 square feet of lot area shall be provided for each mobile home including at least 5,000 square feet for each mobile home site, plus at least 3,000 square feet for each mobile home in common open space, exclusive of roads. Such common space shall be accessible to all residents of the mobile home park, and shall have a minimum dimension of 30 feet.
3. Site planning improvements shall provide for facilities and amenities appropriate to the needs of the park residents; safe, comfortable, and sanitary use by the residents under all weather conditions; and practical and efficient operation and maintenance of all facilities.

Decision of Development Review Board and Public Hearings: In granting approval for a mobile home park, the DRB may attach such reasonable conditions as it deems necessary to implement this Ordinance. The DRB shall hold a public hearing upon public notice on the application and shall act to approve or disapprove the application within forty-five days after the final public hearing. Failure to act within such period shall be deemed approval.

Effect on State Law: Nothing in this section abrogates the responsibility of a developer to comply with the provisions of applicable State law.

SECTION 702. TRAVEL TRAILER PARKS

The Administrative Officer shall not issue a Zoning Permit for a travel trailer park except on approval of the DRB granted in compliance with the procedures set forth below.

Application Procedure: Every applicant for a Zoning Permit for a travel trailer park shall submit all materials and information required by Section 604. In addition, the site plan map shall show the proposed location of each travel trailer lot. The site plan map shall be accompanied by a statement describing the services and facilities that the applicant will provide to users of the park.

General Standards for Review: The following general standards must be met before the DRB may approve an application for a travel trailer camp:

1. The travel trailer park must be consistent with the Bethel Town Plan.
2. The travel trailer park must be an effective and unified treatment of the development possibilities of the project site, and the development plan must provide for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas and unique natural and man-made features.

Specific Standards for Review: The following specific standards must be met prior to approval of an application:

1. The DRB shall take into consideration the objectives discussed in Section 604.
2. Each Trailer lot shall be at least 2,500 square feet in area and have a compacted gravel surface at least 20 feet in width.
3. Each lot shall be located in a dry and well-drained area.
4. There shall be an undeveloped area of not less than 100 feet in depth between all travel trailer and tent sites and the traveled portion of any adjacent highway.

Decisions of Development Review Board and Public Hearing: In granting approval for a travel trailer park, the DRB may attach such reasonable conditions as it deems necessary to implement this Ordinance. The DRB shall hold a public hearing upon public notice on the application and shall act to approve or disapprove the application within forty-five days after the final public hearing. Failure to act within such period shall be deemed approval.

ARTICLE 8: DEFINITIONS

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

Accessory Building: A building customarily incidental and subordinate to the principal building and located on the same lot. When applied to agriculture, this shall be deemed to include the sale of products raised on the property.

Accessory Use: A use customarily incidental and subordinate to the principal use and located on the same lot. When applied to agriculture, this shall be deemed to include the sale of products raised on the property.

Act, The: The Vermont State statute that is the authority for this Ordinance. Full title: Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, et seq.

Administrative Officer: The Town official nominated by the Planning Commission and appointed by the Select Board whose job is to receive and review all zoning permit applications; issue permits for permitted uses and refer conditional use applications and appeals for variance to the DRB.

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 state median income, as defined by the Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income.

2. Housing that is rented by its inhabitants, whose gross annual income does not exceed 65 percent of the state median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

Alteration: Structural change, rearrangement, change of location, or addition to a building, other than repairs and modification in building equipment.

Appeal: The exclusive remedy of an interested party who wishes to reverse any decision or act of the Administrative Officer or provision of this ordinance or the Town Plan. Appeals are made to the DRB and thence to the Environmental Court under an adverse decision from the *DRB*.

Building: Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or goods.

Conditional Use: A land use permitted in a given zoning district only after a hearing and decision by the DRB (e.g., Site Plan Approval, Steep Slope, Right of Access).

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.

Development Review Board: The deliberative body, appointed by the Select Board, which hears and decides appeals and applications for conditional uses.

Dwelling or Dwelling Unit: Building or part thereof used as living quarters for one-family. The terms "dwelling", "one-family dwelling", "two-family dwelling" or "multiple-family dwelling" shall not include a motel, hotel, boarding house, tourist home or similar structure.

Dwelling, One-Family: Detached building used as living quarters by one family.

Dwelling, Two-Family: Building used as living quarters by two families independently of each other.

Dwelling, Multi-Family: Building used as living quarters by three or more families living independently of each other.

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

Flood Hazard Area: Land subject to flooding from the base flood. (See definition of Base Flood in Flood Hazard Overlay District, p. 26).

Guest House: A house with no more than six (6) paying guests at one time with thirty (30) days maximum length of stay and serving no regular meals except breakfast to guests. A Guest House is to comply with all state regulations and licensing procedures relating to such facilities.

Home Occupation: An accessory use to a primary residential use, conducted on the same lot as the residence, which is clearly subordinate to the residential use and does not change the character thereof.

Land Development; see Development.

Lot: Developed land or land eligible for development under this Ordinance. All lots must comply with the minimum lot requirements for a given district and have frontage along a public road or waters or access to same.

Mobile Home: A prefabricated dwelling unit which:

- is designed for long term and continuous residential occupancy;
- is designed to be moved on wheels, as a whole or in sections;
- on arrival at the site, is complete and ready for occupancy except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure;
- contains the same water supply and waste disposal as immovable housing.

Mobile Home Park: A parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate three or more mobile homes.

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 a 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 enactment of the present bylaws, including a structure improperly authorized as a result of error by the Administrative Officer.

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.

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

Off-Premise Sign: A sign located on any parcel of land, regardless of ownership, other than that on which the advertising or business referred to is located.

On-Premise Sign: A sign which contains information relating to the premises on which the sign is located.

On-Site Sewage Disposal: Sewage disposal on the premises or adjacent properties under same ownership or where an easement for disposal has been secured.

Parcel: A single area of land which is not divided by a public road or street and which is occupied or able to be occupied by a principal use or building and its accessory use or building.

Parking Space: Off-street space used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and eighteen feet long, not including access driveway, and having direct access to a street or approved right of way.

Permitted Use: A use specifically allowed in a given district, requiring only the granting of a zoning permit by the Administrative Officer.

Planned Unit Development: Area of land under unified control to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, where the arrangement and types of buildings on the parcel do not necessarily conform to the district requirements of this Ordinance, but where the overall density of development does not exceed that which, in the DRB's judgment, could be permitted in the district in accordance with the district regulations of this Ordinance.

Planning Commission: The body appointed by the Select Board for the purpose of preparing the Town Plan, this Zoning Ordinance and the Town Subdivision Regulations.

Principal Building: Building in which is conducted the main or principal use of the lot on which said building is located.

Public Hearing: A proceeding before the DRB given public notice and open to the public, at which both applicant/appellant and interested parties may present evidence. A public hearing is also a proceeding called by the Planning Commission or Select Board to offer

residents of the Town and other interested parties an opportunity to discuss and comment on a proposed Town Plan, any amendments thereto, or a proposed bylaw or any amendment thereto.

Public Notice: Any public notice required for public hearing shall be given not less than 15 days prior to the date of the public hearing by (a) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the Town of Bethel, and (b) posting notice in at least three public places in the Town; where any hearing is called in reference to adoption or amendment of the Town Plan, or any of the Town's Bylaws, public notice shall also include publication of the full text of the subject material or publication of a statement of purpose, a map or description of the geographic areas affected, a table of contents, and a description of a place within the Town where the full text may be examined; where any hearing is called in reference to Development Review, one of the three prescribed locations for posting public notice shall be within view from the public right-of-way most nearly adjacent to the property for which a permit application has been made, and a public notice shall also include written notification to the applicant and to owners of all properties adjoining –abutting and across the street- the property subject to development. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Recreational Vehicle: A temporary dwelling for travel and recreation and constructed so as to permit its being used on public roads and highways.

Residence: A building or complex of buildings together with accessory structures, which contain one or more dwellings.

Road: A public right-of-way which affords the principal means of access to abutting properties and includes any street, avenue, boulevard, road, alley and any other public right-of-way.

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

Slope: The degree of rise over run of land measured in percent.

Structure: An assembly of materials for occupancy or use, including a building, mobile home or trailer, signs, silo, permanently mounted equipment, fence, or wall.

Travel Trailer: See Recreational Vehicle.

Variance: A Permit issued in deviation from any provision of this Ordinance after an appeal, public hearing, and approval by the DRB.

ARTICLE 9 ENACTMENT PROVISIONS

SECTION 900. EFFECTIVE DATE

This Ordinance shall take effect following its adoption by the Select Board in accordance with applicable provisions of Vermont law. It shall remain in effect until repealed in the manner described by Section 904 below.

SECTION 901. EFFECT ON PRIOR ZONING ORDINANCES.

Upon adoption of this Ordinance or amendments thereto, all prior Bethel zoning ordinances, shall be repealed.

SECTION 902. INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Wherever these regulations impose a greater restriction upon the use of a structure or land than is required by any other statute, ordinance, rule, permit, easement or agreement, the provisions of this Ordinance shall control.

SECTION 903. SEVERABILITY

The invalidity of any article or section of this Ordinance shall not affect the validity of any other article or section thereof.

SECTION 904. PROCEDURE FOR AMENDMENT OR REPEAL

Preparation of Amendment or Repeal: A proposal for amendment or repeal may be prepared by the Planning Commission or by any person or body. A proposed amendment or repeal prepared by a person or body other than the Planning Commission shall be submitted in writing along with any supporting documents to the Planning Commission. If a proposed amendment or repeal is supported by a petition signed by not less than five (5%) percent of the qualified voters of the Town, the Planning Commission shall proceed promptly under the provisions of this section as if the proposed amendment or repeal had been prepared by the Planning Commission.

Planning Commission Hearing: The Planning Commission shall hold at least one public hearing after public notice on any proposed amendment or repeal. The Commission shall thereafter make such changes in the proposed amendment or repeal as it considers appropriate and shall then submit the proposed amendment or repeal to the Select Board with a written report on the proposal. However, in the case of a proposed amendment or repeal supported by a petition signed by not less than five (5%) percent of the qualified voters in the Town, the Commission shall not make any changes prior to submission of the proposed amendment or repeal to the - Select Board.

Select Board Hearings: Not less than fifteen (15) nor more than one hundred twenty (120) days after a proposed amendment or repeal is submitted to the Select Board, the Select Board shall hold the first of one or more public hearings, after public notice, on the proposed amendment or repeal.

Adoption by the Select Board: Subject to the voters right to petition described below, a bylaw, amendment, or repeal shall be adopted by a majority of the members of the Select Board at a meeting held after the final public hearing, and shall be effective twenty-one (21) days after adoption.

Permissive Referendum: Petition for popular vote: notwithstanding a vote by the Select Board on a bylaw, amendment, or repeal, said vote shall not take effect if five percent (5%) of the voters of the Town petition for a meeting of the Town to consider the bylaw, amendment, or repeal, and the petition is filed within twenty (20) days of the vote. In that case, a meeting of the Town shall be duly warned for the purpose of acting by Australian ballot upon the bylaw, amendment, or repeal.

ADDENDUM - BETHEL ZONING ORDINANCE

AMENDMENTS - THROUGH DECEMBER 22, 2008.

November 9, 1980: Changed former Thyng property located on easterly side of Rt. 12 & 107 from Village Residential to Village Business.

March 27, 1981: Changed Rt. 107 from Stockbridge Town line to Jct. of Rt. 107 and 12 from Highway Residential to Highway Commercial.

June 12, 1981: Changed Town Highway #41 commencing at the end of the Village Residential District and going approximately 1,000 feet to the Dorothy Grady property line on the easterly side of the highway from Resource Conservation to Medium Development District.

September 13, 1981: Changed Town Highway #41 along the Dartt Hill Road a distance of 1,000 feet on each side of the road, from Resource Conservation District to Rural Development District. This area starts at the Medium Development District near 'the Lympus Four Corners and runs to the Highway Residential District on Dartt Hill Road.

September 27, 1981: The use category of the area on the easterly side of North Main Street commencing at the southerly boundary of the Bethel Mills property adjacent to the Calvin Cornell property northerly to the northerly boundary of the Bethel Mills property adjacent to the Richard Mills property and bounded westerly by the Central Vermont Railway has been changed from Village Residential to Village Industrial. Roadside Commercial and Town Center are now removed from the excluded list and are included in the Permitted Use Category in the Village Industrial area. The lot size and setbacks are to conform to the Light Industrial specifications. The number of employees is changed from fifteen (15) to thirty (30).

April 9, 1982: To add the following to the Bethel Zoning ordinance:

Section 230, Use Categories, Paragraph (e) under Examples: Guest House Article 6: Definitions. Add in the proper alphabetical order. Guest House: A house with no more than six (6) paying guests at one time with thirty (30) days maximum length of stay and serving no regular meals except breakfast to guests. A Guest House is to comply with all state regulations and licensing procedures relating to such facilities.

August 27, 1982 To amend as follows:

A section of land formerly zoned Village Residential has been rezoned Village Industrial. This section of land lies south of Bethel Village in the vicinity of the Paini Monument building and the former "Boarding House". Beginning at a point on the south side of Route 107 which point is the same point on the property line separating Hugh and Elsie Benson from Philip Paini and proceeding easterly along said right-of-way of Route 107 a distance of 450 feet, thence turning at a 90 degree angle and proceeding a distance of 200 feet in a southerly direction to the boundary separating the Village Residential District from Village industrial District, thence turning westerly 90 degree and proceeding 450 feet in a westerly direction on boundary line to the property line separating Lots 11 & 12(so-called Gilson lots), thence turning a 90 degree angle and Proceeding northerly a distance of approximately 200 feet to the point of beginning.

May 3, 1983: To amend as follows:

1. Section 271 (F) Village Commercial District. To change Town Center Commercial and Individual Service from excluded category to the Conditional Use Category.
2. Section 272 East Bethel Village District. To change Commercial Group Service from excluded to conditional use.
3. Section 273 (d) To change Individual Service, Agriculture and Municipal from Conditional Use to Permitted Use.
4. Section 276 Resource Conservation District. To change wording in (c) under permitted use to one and two family residential to correspond with the chart.
- S. On Page 23 to correct typographical error under (h) (1) of the second line, last word from flood to floor.

December 23, 1991: To amend the District Classification of a section of land on the southerly side of State Route 107 from Village Residential District to Village Industrial District, the bounds of the subject being described as follows: (Section 210): Commencing at a point on the southerly edge of the right-of-way of State route 107 said point also being on the westerly edge of the right-of-way of Bethel Town Highway #48 i.e. at the intersection of said rights-of-way; thence turning and running in a southerly Direction along the line of the right-of-way to said Town Highway #48 a distance of approximately two hundred (200) feet to intersect the boundary line of the current Village Industrial District; thence turning and running in a westerly direction along the boundary line of the Village Industrial District a distance of approximately two thousand (2,000) feet; thence turning in a northerly direction and continuing along the boundary of the said Village Industrial District a distance of approximately two hundred (200) feet to intersect the southerly edge of the right-of-way of State Route 107; thence turning in an easterly direction and following the right-of-way of said State Route 107 to the point and place of beginning.

December 23, 1991: To amend Section 277: to replace the present "Flood Hazard Area District" regulations with new regulations as per those adopted as Interim Bylaws by the Legislative body of the Town on July 22, 1991; the proposed new Section 277 would have the following sub-section headings; Purpose, Description, Interpretation of District Boundaries, Permitted Uses, Conditional Uses, Conditional Use Review and Approval Procedures, Considerations by the Board of Adjustment Conditions Attached to Conditional Uses, Special Administrative Procedures, Annual Report, Warning of Disclaimer of Liability, Precedence of Regulations, Definitions.

July 11, 1992 Section 318: (Temporary Uses and Structures) to add the following sentence: "Extraction of soil, sand and Gravel must meet the requirements of Section 321; Section 321 (Extraction of soil, Sand and Gravel) to replace the present section with a new text having the following sub-section headings: Application for Approval, Criteria for Approval.

July 7, 1994: Section 230 (h) Light Industrial (definition); Section 230 (i) Heavy Industrial (definition); Section 271 (d) (3) and (4) Conditional Uses and Excluded Uses

October 15, 1996: Effective date the Development Review Board Created.

February 12, 2005: Effective date of amendments to bring ordinance into compatibility with new provisions of VSA Title 24 Chapter 117.

August 27, 2007: (1) Ordinance amendments in Residential Care and Group Homes (Section 329), Accessory Dwellings (Sec. 330), Appointment of Administrative Officer (Sec. 500), Duties of the Administrative Officer (Sec. 502), Procedures of the Development Review Board (Sec. 505), Appeals (Sec. 602), Definitions (Article 8), and Procedure for Amendment or Repeal (Sec. 904) to assure consistency with H.175, the Permit Reform Law. (2) Flood Hazard Regulation amendments to assure consistency with federal requirements within the National Flood Insurance Program affecting Sections 151 (Exempt Land Development), 152 (Permit Required for New Development), 215 (Establishment of Overlay Zoning Districts), 277 (Flood Hazard Overlay District), and 506 (Enforcement).

December 10, 2007: Additional Flood Hazard Regulation amendments to complete consistency with federal requirements within the National Flood Insurance Program affecting Section 152 (language revisions), change nomenclature of ‘Commercial Development’ to ‘Non-Residential Development’, revised language in ‘Variances’ under ‘Special Administrative Procedures’, eight (8) ‘Definitions’ added (‘Base Flood Elevation’, ‘Development, Existing Manufactured Home Park or Subdivision’, ‘Expansion to an Existing Manufactured Home Park or Subdivision’, ‘Manufactured Home Park or Subdivision’, ‘Start of Construction’, ‘Substantial Damage’, ‘Violation’), two (2) Definitions deleted (‘New Construction’, ‘New Manufactured Home Park or Subdivision’), and one (1) Definition revised (‘Structure’).

December 22, 2008: (1) ‘Highway Residential’ and ‘Highway Commercial’ Districts consolidated into one ‘Highway Development District’. (2) Where ‘Multiple Family Dwellings’ were a Conditional Use, it was moved to ‘Permitted’ and where previously excluded, moved to ‘Conditional Use’. (3) To clarify language or grammar, general housekeeping changes made in a number of sections.