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ZONING REGULATIONS

TOWN OF CASTLETON

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ARTICLE I: ENACTMENT, OBJECTIVES, PURPOSE AND SCOPE

Section 101: Enactment

In accordance with the Vermont Planning and Development Act, 24 VSA 117, hereinafter referred to as the "Act", there are hereby established Zoning Regulations for Town of Castleton which shall be known and cited as the "Zoning Ordinance of the Town of Castleton".

Section 102: Objectives and Intent

The objective of the Zoning Regulation is to establish standards and policies concerning development of land which further the goals of the Castleton Plan.

It is intended that standards and policies established by the Zoning Regulations reflect and express a sense of community values toward Castleton's environment including the value of appearance and congenial arrangement for the conduct of farming, trade, industry, residence and other uses of land necessary to the community's well-being in so far as such values are related to the objectives of the adopted Town Plan.

It is the intent of these Zoning Regulations to provide for orderly community growth and to further the purposes established in the Act, Section 4302.

Section 103: Purpose and Scope

The purpose of this Regulation is for the promotion of the health, safety, or general welfare of the community by establishing regulations and conditions governing the erection and use of buildings, other structures and use of land and natural resources.

ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

Section 201: Establishment of Zoning Districts

The Town of Castleton hereby establishes the following Zoning Districts:

See Article III for uses permitted in each district; see Article IV for dimensional requirement of each district.

R 20	Residential 20,000 sq. ft.	CC	College Campus
R 40	Residential 40,000 sq. ft.	IND	Industrial
RR2A	Rural Residential 2 Acres	RC	Recreation Commercial

RR5A	Rural Residential 5 Acres	VC	Village Commercial
WSPA	Water Source Protection Area*	FH	Flood Hazard **

*Overlay District

**Overlay district and Conditional Use

A. R-20 Residential 20,000 District, Minimum Lot Size:
Residential - 20,000; Non-Residential - 2 Acres

1. Purpose: To provide residential opportunities on existing lots with municipal sewer within the village.
2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I.
3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay District. Please check the Official Zoning Map and see Section 201.J

B. R-40 Residential 40,000 District, Minimum Lot Size:
Residential - 40,000; Non-Residential - 2 Acres

1. Purpose: To permit an opportunity for residential uses around the lake and in selected portions of the community close to the village and necessary services.
2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I
3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay District. Please check the Official Zoning Map and see Section 201.J

C. RR - 2A Rural Residential 2 Acre District, Minimum Lot Size: Two Acres

1. Purpose: To provide residential opportunities in the major portions of the community to the extent there are not substantial conflicts with natural resources.

2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I
 3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay District. Please check the Official Zoning Map and see Section 201.J
- D. RR - 5A Rural Residential 5 Acre District - Minimum Lot Size: Five Acres
1. Purpose: To provide for larger lots in environmentally sensitive portions of the community.
 2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I
 3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay District. Please check the Official Zoning Map and see Section 201.J
- E. VC - Village Commercial District: With municipal sewer - 20,000 square feet; without municipal sewer - one acre
1. Purpose: To support the role of the village as the focus of social and economic activities in the community and to provide for residential, commercial and other compatible development that serves the needs of the community. Such development should occur at densities and uses that will maintain the traditional, social and physical character of the village and that will not exceed the capability of the lands, waters, services and facilities.
 2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I
 3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay District. Please check the Official Zoning Map and see Section 201.J.

F. RC - Recreation Commercial District:

1. Purpose: To combine residential use with compatible commercial establishments in a traditional lake area setting in order to provide pleasant living conditions and to promote convenient shopping and services.
2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I
3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay District. Please check the Official Zoning Map and see Section 201.J

G. IND - Industrial District: Minimum Lot Size - 20 Acres

1. Purpose: To provide opportunity for industry within the community in order to assist the tax base and provide employment for community residents.
2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I
3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay District. Please check the Official Zoning Map and see Section 201.J

H. CC - College Campus District:

1. Purpose: To provide opportunity for continuing higher education and the support services including housing, athletics and extracurricular activities.
2. Flood Hazard Areas: There may be some land within this district that is within the Flood Hazard Overlay District. Please check the Official Zoning Map and see section 201.I
3. Water Source Protection Areas: There may be some land within this district that is within the Water Sources Protection Overlay

District. Please check the Official Zoning Map and see Section 201.J

I. FH - Flood Hazard - an Overlay District

Minimum lot size: underlying district requirements

1. Description: All lands shown on the official Zoning Map as flood hazard areas are based on the designations of flood hazard areas as shown on the Flood Insurance Rate Map (FIRM) prepared by the Federal Insurance Administration. These maps are adopted by reference, incorporated herein and declared to be part of this chapter; the area is also generally shown on the Official Zoning Map as an overlay. See also Section 413.

J. WSP -Water Source Protection – an Overlay District

Minimum lot size: underlying district requirements

1. Description: Lands that provide the water sources and storage for wells providing public water supply for human consumption within the Town of Castleton. For zoning purposes, the boundaries of the Water Source Protection Overlay District are located on the official Zoning District Map as an overlay. See also Section 414.

Section 202: Zoning Map

The location and boundaries of Zoning Districts are established as shown on the Official Zoning Map; a copy is appended. The Official Zoning Map is hereby made a part of these regulations, together with all future amendments. No changes of any nature shall be made in the Official Zoning Map except in conformity with Section 1405 of this Regulation.

Regardless of the existence of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be that located in the Town Clerk's office and it shall be the final authority as to the current zoning status of land and water areas.

Section 203: Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center of streets, highways or alleys shall be construed as following the center lines of the rights-of-way of such streets, highways or alleys, unless specifically stated to the contrary.
- B. Boundaries indicated as following railroad lines shall be construed as following the center lines of the rights-of-way of such railroad lines; unless specifically stated to the contrary.
- C. Boundaries indicated as following transportation or power line rights-of-way shall be construed as following the center lines of such rights-of-way; unless specifically stated to the contrary.
- D. Boundaries indicated as following property lines shall be construed as following such lines as they exist on the effective date of these regulations.
- E. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- F. Boundaries indicated as approximately following Town limits shall be construed as following Town limits.
- G. Boundaries indicated as following shore lines shall be construed as following such shore lines; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- H. Boundaries indicated as being parallel to or extensions of lines or features described in subsections A-G shall be construed as parallel to or extensions of such lines or features. Distances not specifically indicated shall be determined by the scale of the map.
- I. Boundaries indicated as lines perpendicular to lines or features described in subsections A-G shall be construed to proceed at right angles from such lines or features. Distances not specifically indicated shall be determined by the scale of the map.
- J. Boundaries indicated as following existing contour lines, at the time of adoption of the Ordinance, shall be construed to follow the line of the elevation indicated as determined on the ground.

- K. The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of these regulations, shall not affect the location of such boundary line.
- L. Where physical features existing on the ground are at a variance with those shown on the Official Zoning Map, or any conflict within any of the provisions hereof, or in any circumstances not covered by subsections A-K above, the Development Review Board shall, upon appeal, interpret the district boundaries.
- M. When the Administrative Officer cannot definitively determine the location of a district boundary, the Development Review Board shall, upon appeal, interpret the location of the district boundary with reference to the Official Zoning Map and the purposes set forth in all relevant provisions of the Ordinance.
- N. Where a boundary line between districts divides a lot or parcel of land, the Development Review Board may permit the extension of the regulations for either portion of the lot not to exceed one hundred (100) feet beyond the District line into the remaining portion of the lot.
- O. The Administrative Officer shall determine the relationship of a proposed development to the area of special flood hazard, using, where available (i.e., Zones A through F, A and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps. Where interpretation is needed as to the exact location of the boundary, the Development Review Board shall, upon appeal, make the necessary interpretation.
- P. The Administrative Officer shall determine the relationship of a proposed development to the area of Water Source Protection Area, using the overlay map. Where interpretation is needed as to the exact location of the boundary, the Development Review Board shall, upon appeal, make the necessary interpretation.

Section 204: Application of Regulations

- A. The Regulations within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure and/or land, except as hereinafter provided.

- B. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the Regulations herein specified for the zone in which it is located. Also see Article VII.
- C. No building or other structure shall hereafter be erected or altered contrary to the provisions and intent of this Regulation.
- D. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Regulation, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- E. When there is more than one principal building on a parcel, the space between such buildings shall be no less than the sum of the setbacks required if each building were on a separate lot. Minimum lot area requirements shall apply to each principal building. A deeded restriction on further subdivision of the lot shall waive this requirement. This does not apply to the college campus.
- F. No yard or lot existing at the time of passage of this Regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Regulation shall meet at least the minimum requirements established by the Regulation.
- G. Lot area on one side of a public highway shall not be added to lot area on the other side of such highway in calculating minimum lot area.
- H. Any use not permitted by the Regulations shall be deemed prohibited.

ARTICLE III: TABLE OF USES

P = PERMITTED USE

C = CONDITIONAL USE

S=PERMITTED WITH SITE PLAN REVIEW

ALL USES ARE SUBJECT TO THE REQUIREMENTS OF ARTICLE V-A
CONDITIONAL USES ARE SUBJECT TO ARTICLE IV, AS APPLICABLE
(See Comment)

USES	R-20	R-40	RR-2A	RR-5A	CC	RC	VC	IND	COMMENT
Accessory Use	P	P	P	P	C	P	P	C	
Agriculture	P	P	P	P	P	P	P	P	
Appliance									
Retail Sales & Service			C*			S	S		
Wholesale Sales & Service						S	S	C	
Associations, Clubs & Lodges			C	C		C	C		
Automobiles									
Painting and Repair							C	S	
Parts and Supplies			C*				S	S	
Sales, Used Vehicles			C*				S		
Sales and Service			C*				S		
Service Stations							C		
Bank			C*			C	S		
Bed and Breakfast	S	S	S	S		S	S		
Beer & Wine Distributors							C	S	
Building Materials Sales/Storage			C*				C	S	

Church, Temples, Etc.			S				S		
Communication Towers			C	C			C		See Section 415
Convenience Store/Small Grocery (no gas)			C*			S	S		
Cottage Industry	S	S	S	S		S	S		See Section 403
Day Care Facility > seven	S	S	S	S	S	S	S		
Electrical Supplies, Wholesale & Retail			C*			C	S	S	
USES	R-20	R-40	RR-2A	RR-5A	CC	RC	VC	IND	COMMENT
Fabric Retail Sales			C*			C	S		
Fire Station	C	C	C	C	C	C	C	C	
Flooring-Retail Sales/Installation (carpet/tile/linoleum)			C*			C	S	S	
Forestry	P	P	P	P	P	P	P	P	
Funeral Home		C	C				C		See Section 405
Furniture and Home Furnishings									
Retail Sales, New and Used			C*			C	S		
Upholstering			C*				S		
Wholesale & Storage			C*				C	S	
Garden Center - Retail			C				S	S	See Section 405
Gift Shops, Antique Stores, Crafts			C*			S	S		
Glass Sales & Repair			C*				S		
Golf Course			C			C			
Home Occupation	P	P	P	P		P	P		See Section 403
Kennels			C	C			C		See Section 406

Landscaping Contractor			S	S			S		
Lumber Yard			C*				C	S	
Manufacturing, Light			C*			C		C	See Section 407
Mobile Home Park			C*						
Motels			C			C	C		
Municipal Offices	P	P	P	P		P	P		
Music Instruments-Retail Sales & Service			C*				S		
Nursing Homes		C	C						See Section 408
Office Building			C				S		
Office Equipment-Retail Sales & Service			C*				S		
Parks, Municipally owned	C	C	C	C		C	C		
Pet Shops			C*				S		
Planned Residential Development (PRD)		C	C	C		C	C		
USES	R-20	R-40	RR-2A	RR-5A	CC	RC	VC	IND	COMMENT
Plumbing Fixtures-Supplies									
Display - Retail			C*				S		
Display - Wholesale			C*				S	S	
Plumbing Service			C*				S		
Pool Equipment Sales			C*				S		
Post Office			C*				C		
Professional Office			C				S		
Professional Residence - Office	S	S	S			S	S		

Propane Distributor								C	
Quarry, Removal of Sand, Gravel, or Topsoil			C	C				C	See Section 404
Real Estate Office			C*				S		
Recreation Areas, Private (Indoor/Outdoor)		C	C	C	C	C	C		See Section 409
Recycling Station			C				C	C	Municipal only
Residential									
Accessory Building	P	P	P	P	P	P	P		See Section 1016
Apartment Accessory	P	P	P	P		P	P		
Group home			C	C					See Section 410
One Family	P	P	P	P		P	P		
Two-family	P	P	P	P		P	P		
Multiple family			C			C	C		
Restaurant			C*			C	C		
Schools			C		C				See Section 411
Self-Storage Facility							C	C	
Solar Energy Panels	C	C	C	C	C	C	C	C	See Section 415
Solid Waste Drop-off			C				C	C	Municipal only
Sporting Goods & Camping-Retail Sales			C*			S	S		
Stone Contractors & Sales			C*				C	S	
USES	R-20	R-40	RR-2A	RR-5A	C C	R C	V C	IN D	Comment
Trailer Camp			C			C			
Trailer Sales-Renting &			C*				C	S	

Leasing									
Truck - Supplies and Parts Storage			C*				C	S	
Truck - Painting, Repair, Sales, Rent, Lease							C	S	
Trucking							C	S	
Veterinary Hospitals			C	C			C		See Section 412
Warehouse							C	S	
Welding Shop							C	S	
Wind Generator		C	C	C	C	C	C	C	See Section 415
Wood Manufacturing								S	
Wood Working Shop							C	S	

*= requires Town Sewer

ARTICLE IV. USES PERMITTED SUBJECT TO CONDITIONS

A zoning permit shall be issued by the Administrative Officer for any use or structure which requires conditional use approval only after the Development Review Board grants such approval. In considering its action, the Board shall make findings upon both general and specific standards set forth in these regulations. Except as specifically provided herein, no Board may amend, alter, invalidate or affect any plan or by-law of any municipality or the implementation or enforcement thereof, or allow any use not permitted by any Zoning Regulations or other by-laws.

In addition to any specific conditions of Sections 403 through 415, the Development Review Board shall determine that the proposed conditional use shall not result in an undue adverse effect on any of the following:

- A. The capacity of existing or planned community facilities;
- B. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of the municipal plan;
- C. Traffic on roads and highways;
- D. Use of renewable energy resources; and
- E. Bylaws and ordinances in effect.

In granting conditional use approval, the Board may attach such reasonable conditions in addition to those outlined, as it deems necessary. The Board shall act to approve or disapprove any such requested conditional use within 45 days after the date of the final public hearing held under this section, and failure to so act within such period shall be deemed approval and effective on the 46th day.

Upon the failure of any interested person to appeal to the Development Review Board under Section 4464 of the Act, or to appeal to Environmental Court under Section 4471 of the Act, all interested persons affected shall be bound by such decision or act of such officer, such provisions, or such decisions of the Board, as the case may be, and shall not thereafter contest, either directly or indirectly, such decision or act, such provision, or such decision of the Board in any proceeding, including without limitation, any proceeding brought to enforce this chapter.

The conditions for lot size and setbacks apply unless Article V is more restrictive.

Section 401: Applications for Conditional Use

All uses requiring Conditional Use approval, except one and two family dwellings, are also subject to the following:

- A. In addition to the information required in Section 1102C the owner and/or applicant shall submit seven (7) sets of a site plan and supporting data to the Administrative Officer which shall include the following information presented in drawn form and accompanied by written text.
 - 1. Name and address of the owner of record of this and adjoining lands; name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north point, and date.
 - 2. Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions, zoning classification, existing surface waters (brooks, ponds, etc.), if any, and the location of proposed structures with distance from lot lines indicated.
 - 3. Site plan showing proposed structure(s), locations and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities, both existing and proposed, including placement of poles; and including water wells, and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks, transformers, solar panels.
 - 4. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 - 5. The location and size of proposed signs.
 - 6. Certification that the applicant has notified all adjoining property owners of the application.
 - 7. Any of the above information can be waived at the discretion of the

Development Review Board.

A request for a waiver shall be submitted to the Development Review Board and shall specify which portions are requested for waiver. The applicant shall include a preliminary site plan providing sufficient information upon which the Development Review Board can make a decision. The Development Review Board may request additional information.

A request for a waiver shall not be considered as submission for purposes of timing requirements relating to action on applications.

- B. The Administrator shall check to see if all required information has been submitted and the fees paid and shall submit the completed application to the Development Review Board. Incomplete applications shall be returned to the applicant.

Section 402: Conditions Relating to Siting of Conditional Uses

All Conditional Uses shall be simultaneously reviewed under the requirements of Article VIII - Site Plan Review.

Section 403: Cottage Industry

- A. No more than fifty (50) percent of the floor area of a residential dwelling may be used for a cottage industry. In any accessory structure, an area may be used that does not exceed fifty (50) percent of the floor area of the residential dwelling. This is in place of, and not in addition to the use of the residential structure.
- B. The use does not change the character of the area and, the dwelling, accessory buildings, and the lot shall maintain a residential appearance at all times.
- C. The cottage industry is clearly secondary to the use of the site for residential purposes.
- D. The use is conducted within a portion of the dwelling or a building accessory thereto by the bona fide year-round resident of the dwelling.
- E. No more than two (2) employees, in addition to the principal owner(s), shall be permitted.

- F. The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
- G. Storage of equipment related to the cottage industry shall be within an enclosed structure or properly screened from adjacent residential uses.

Section 404: Earth Resources Extraction

- A. There shall be a minimum lot area of five (5) acres.
- B. A performance bond for all activities except mining and quarrying shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive, and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end.
- C. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property. All provisions to control natural drainage shall require the approval of the Development Review Board.
- D. No excavation, blasting, or stock piling of materials shall be located within two hundred (200) feet of any street or other property line. The property line restriction may be waived by adjacent property owners if written agreement is obtained.
- E. No noise which represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted.
- F. No vibration shall be permitted which shall exceed a peak particle velocity of 0.5 inches per second at the property line.
- G. No emission shall be permitted which may cause any damage to health, to animals, vegetation, or other forms of property which can cause excessive soiling, at any point on the property of others.
- H. No power-activated sorting or processing machinery or equipment shall be located within two hundred (200) feet of any street or other property line. The property line restriction may be waived by adjacent property

owners if written agreement is obtained.

- I. Stripping of top soil for sale or for use on other premises, except as may be incidental to a construction project, or sand or gravel operation on the same premises, shall be prohibited.
- J. The creation of pits or steep slopes shall not be permitted unless provisions are made to refill each pit, or cut the sides of steep slopes in a manner which will ensure public safety and prevent erosion. Earth slopes greater than 2 horizontal/1 vertical shall not be allowed to remain. Excavation and open pit extraction sites shall be graded, fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation to prevent erosion. Such work shall be inspected and approved by the Administrative Officer prior to the release of any bond.
- K. The facility shall operate only from 6 AM to 7 PM Monday through Saturday unless other hours determined by Development Review Board at time of permit.
- L. A sand or gravel pit on a farm shall be termed accessory to an agricultural use and shall not be subject to provisions (B) and (I) of this Section, if all of the following requirements are met:
 - 1) Provisions (C), (D), (E), (F) and (G) are complied with.
 - 2) The excavation area is confined to one-half acre or less.
 - 3) No trucks whose primary function is commercially hauling sand, gravel, or soil are kept on the premises.
 - 4) The sand or gravel pit is not a primary source of income for the owner.
 - 5) No power-activated sorting or processing machinery or equipment is located on the premises.
- M. Load must be covered when off-site or loaded so as not to spill while en route.
- N. The development shall not conflict with deer yards, historic sites or fragile areas.

Section 405: Funeral Homes/Garden Center - Retail

- A. There shall be a minimum lot area of two (2) acres.
- B. Structures, including accessory buildings, shall not occupy more than thirty percent (30%) of the area of the lot.
- C. There shall be minimum yards of twenty-five (25) feet on all sides of the building(s) with a minimum setback of one hundred (100) feet from all adjacent residential property.
- D. Where possible, entrances and exits to the parking lot shall be on non-residential streets.
- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. All driveways, entrances and exits shall be located a minimum of seventy-five (75) feet from any street intersections.

Section 406: Kennels

- A. The minimum lot size shall be five (5) acres.
- B. The minimum setback of dog runs and structures housing the animals shall be two hundred (200) feet from any adjacent residential property line.
- C. Animal excrement, waste and remains shall be disposed of in a proper and sanitary manner.
- D. Outdoor kennels must be screened from view from neighboring residential properties by evergreen landscaping material or opaque fencing six (6) feet in height.
- E. Any outdoor lighting must be shaded to avoid shining on any adjacent properties or roadways.

Section 407: Light Manufacturing

- A. Wastewater: Wastewater must be disposed of in a safe, non-polluting

manner, as evidenced either by connection or authorization to connect to public sewer lines or a State issued discharge permit.

- B. Access: Access for emergency vehicles to any permanent or occupied structure must be provided either by frontage on public roads or waters; or by frontage on a maintained private road built to the standards adopted by the Town for development roads (Vt. Dept. of Highways Document A-76), or (with the approval of the Development Review Board) by an improved, all-weather, unobstructed easement, or right-of-way at least fifty (50) feet wide.
- C. Water: There must be an adequate water supply to service the use intended, as evidenced by connection or authorization to connect to a public water supply system, or proof that the rate of flow from any private well or water source is sufficient to service the use intended.
- D. Traffic: Expected traffic flow to and from the site must not be beyond the capacity of local roads. Evidence of compliance may consist of certification from the Select Board that local roads in the vicinity of the use are either presently adequate or projected to be upgraded to handle the amount and weights of the vehicles expected at the site, or by an access permit from the State of Vermont Agency of Transportation.
- E. Intersection of Access Road with Local Roads: The design of the intersection of the access road to the site with local roads must conform with the criteria contained in the Standards for Development Roads issued by the Vermont Agency of Transportation.
- F. Slopes and Erosion: In areas of steep slopes, the following standards shall apply:
 - 1. Twelve (12) to less than fifteen (15) percent slope: No more than forty (40), percent of such areas shall be developed and/or regraded or stripped of vegetation.
 - 2. Fifteen (15) to thirty (30) percent slope: No more than thirty (30) percent of such areas shall be developed and/or regraded or stripped of vegetation.
 - 3. Slopes in excess of thirty (30) percent: No more than fifteen (15) percent of such areas may be developed and/or regraded or stripped of vegetation.

Hills totally contained within a lot, whose development will not cause erosion effects on neighboring lots are exempt from this provision, except that if a hill is within fifty (50) feet of a neighboring property, a registered professional engineer must certify that erosion effects will not be experienced by neighboring properties and no such effects must be subsequently experienced by neighboring properties.

- G. Noise: No noise shall be permitted which represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area.
- H. Vibration: No vibration shall be permitted which shall exceed a peak particle velocity of 0.5 inches per second at the property line.
- I. Smoke, Dust, Fly Ash, Fumes, Vapors, Gases, and other Forms of Air Pollution: No emission shall be permitted which may cause any damage to health, animals, vegetation, or other forms of property which can cause excessive soiling at any point on the property of others.
- J. Odors: No emission of detectable objectionable odors beyond the property line of the Lot where such originates shall be discharged, caused, allowed, or permitted.
- K. Fire, Explosive, or Safety Hazard: No fire, explosive, or safety hazard shall be permitted which significantly endangers the operations, people around the operations, other property owners, degrades adjoining property, or which results in a significantly increased burden on municipal facilities.
- L. Glare, Lights, and Reflections: Except for public street lights and traffic signals:
 - 1. Any operation or activity producing glare or utilizing exterior lighting shall be conducted so that direct or indirect light from the source shall not cause illumination in excess of 0.5 foot-candles when measured at adjacent residential boundaries. All fixtures shall be of a directed illumination type which shall focus all light toward the ground or against the structure to be established.
 - 2. No flickering or flashing lights may be used.

3. Lights shall be established so as not to be distractive to drivers of vehicles on roads in the vicinity of the use.
- M. All uses which are located on a parcel or lot containing the boundary of the Industrial District with another zoning district within the Town shall establish and maintain a twenty (20) foot wide landscaped buffer area located entirely on the parcel within the Industrial District to be developed, such buffer shall serve to insulate said parcel from the adjoining zoning district.

Section 408: Nursing Homes

- A. For nursing homes for ten (10) or less patients, there shall be a minimum lot area of one (1) acre; for nursing homes with more than ten (10) patients, there shall be a minimum lot area of two (2) acres.
- B. The total lot coverage of all buildings shall not exceed thirty percent (30%) of the area of the lot.
- C. There shall be a minimum front, side, and rear yards of twenty five (25) feet.
- D. The maximum number of persons permitted on any one lot shall not exceed thirty (30). This does not include visitors or staff members, except those that reside at the facility.
- E. In addition to the requirements set forth above for yards, there shall be provided two hundred (200) square feet of usable open space per person, not including parking and driveways.
- F. Off-street parking shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.

Section 409: Recreation Areas, Private

- A. The total lot coverage of all structures shall not exceed twenty percent (20%) of the area of the lot.
- B. There shall be minimum front, side, and rear yard setbacks of twenty-five (25) feet.

- C. In addition to the yard requirements above, every building shall be set back a minimum distance of one hundred (100) feet from any adjacent residential property line.
- D. No building shall be erected to a height in excess of two (2) stories.
- E. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.
- F. Reasonable hours of operation shall be determined according to particular recreational uses.

Section 410: Residential - Group Home

- A. There shall be a minimum lot area of forty-thousand (40,000) square feet.
- B. The total lot coverage of all buildings shall not exceed thirty percent (30%) of the area of the lot.
- C. There shall be minimum front, side, and rear yards of twenty five (25) feet.
- D. The maximum number of persons permitted on any one lot shall not exceed twenty (20). This does not include staff members, except those that reside at the facility.
- E. In addition to the requirements set forth above for yards, there shall be provided four hundred (400) square feet of usable open space per person.
- F. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property and shall be surrounded by a planting screen or suitable fence.

Section 411: Schools

- A. Use of land shall be limited to accredited educational facilities including buildings for classrooms, administration, maintenance, gymnasiums, athletic fields, and playgrounds.

- B. The minimum lot area shall not be less than three (3) acres for nursery, pre-kindergarten or kindergarten, four (4) acres for any elementary school, ten (10) acres for any Junior High school, and fifteen (15) acres for any Senior High School.
- C. Off-street parking shall be provided in accordance with Article VI and shall be located a minimum distance of twenty-five (25) feet from any adjacent residential property, and shall be surrounded by a planting screen or suitable fence.
- D. The maximum building coverage for any or all buildings shall not exceed thirty (30%) percent of the lot area.
- E. There shall be a minimum front, side, and rear yards of fifty (50) feet.

Section 412: Veterinary Hospital - Non Boarding

- A. Animal excrement, waste, and remains shall be disposed of in a proper and sanitary manner.
- B. Any outdoor lighting must be shaded to avoid shining on any adjacent properties or roadways.
- C. If the veterinary hospital boards animals, then all regulations in Section 406 "Kennels" shall apply.

Section 413: Conditional Uses - Flood Hazard District

- A. In reviewing each application for a conditional use permit in the Flood Hazard District, the Development Review Board may consider the following:
 - 1. the danger to 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 down stream to the injury of others;
 - 3. the susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owners;
 - 4. the importance of the services provided by the proposed facility to the community;

5. the necessity to the facility of a waterfront location;
 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 proposed water supply and sanitation systems, and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding;
 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;
 11. the costs of providing governmental and public facilities, and services, during and after flooding.
- B. In all flood hazard areas (i.e., numbered and unnumbered A Zones), the Development Review Board shall require, as a condition of approval that:
1. All development be designed to (i) minimize flood damage to the proposed development and to public facilities and utilities, and (ii) to provide adequate drainage to reduce exposure to flood hazards.
 2. Structures be (i) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damage, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering, or accumulating within the components during conditions of flooding.
 3. The flood carrying capacity within any altered or relocated portion of a watercourse be maintained.

4. New and replacement water supply and sanitary sewage systems be designed to minimize, or eliminate infiltration of flood waters into the systems, and discharges from the systems into flood waters.
5. On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
6. New and replacement manufactured homes be elevated on properly compacted fill such that the top of the pad under the entire manufactured home is above the base flood elevation.
7. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.
8. The lowest floor, including the basement, of all new residential buildings shall be at or above the base flood elevation.
9. New nonresidential buildings and existing buildings to be substantially improved for nonresidential purposes shall either meet the requirements of Subsection B.8 or be designed to be watertight below the base flood elevation with walls substantially impermeable, and with structural components having the capacity of buoyancy. 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.
10. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are prohibited within the floodway. These facilities may be permitted outside of the floodway, provided that the area is filled to at least one (1) foot above the base flood elevation.
11. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a

professional engineer, or architect, or meet, or exceed the following minimum criteria:

- (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one (1) foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves, or other coverings, or devices provided that they permit the automatic entry and exit of floodwaters.
- C. The Board may attach additional conditions as are necessary to meet the purpose of this chapter. For nonconforming structures see Section 710, for conditional use permits see Section 1109, for variances see Section 1208.

Section 414: WSP -Water Source Protection Area

Purpose: To protect drinking water supplies in the Town of Castleton. For further information about this section, please refer to the Water Source Protection Plan, Castleton VT.

- A. Performance Criteria for all development within the Water Source Protection Overlay District:
- 1. Maximum impervious lot coverage by building and paving: 25%
 - 2. The development or use must not cause an excessive increase in quantity or rate or rechanneling of water runoff onto neighboring properties.
 - 3. The natural water course shall be maintained with appropriate grading, culverts, or other technology.
 - 4. No development within 100 feet from the mean high water mark of rivers and streams shall be permitted, except for uses and structures that do not have the potential to threaten the stability of the stream bank.
 - 5. Excavation shall not jeopardize or contaminate the water supply.

6. Use of pesticides, herbicides, and commercial fertilizer use shall be prohibited within 200 feet of any public water supply well.
 7. All pesticide, herbicide and fertilizer use, and manure storage and spreading shall conform to applicable State and Federal regulations.
- B. Limitations: The following uses are not permitted in the Water Source Protection Overlay District.
1. Disposal of solid waste. Only brush and stumps are acceptable if generated from clearing of land and buried on the same site.
 2. Subsurface storage of petroleum and other hazardous materials.
 3. Above ground storage of petroleum and other hazardous materials over 1100 gallons.
 4. Disposal of liquids or leachable wastes, except from single or multi-family residential subsurface disposal systems or spreading animal manure using Best Management Practices or approved commercial or industrial systems which discharge only human waste.
 5. Industrial uses which discharge contact type process waters on site without treatment. Non-contact cooling water is permitted.
 6. Storage of road salt or salted sand.
 7. Dumping of snow containing de-icing chemicals brought from outside the Water Source Protection Overlay District.
 8. Commercial animal feedlots.
 9. New mining, quarrying, sand and gravel operations, or topsoil removal.
 10. All on-site handling, disposal, storage, processing, or recycling of hazardous or toxic materials.
 11. Automotive service and repair shops, fuel sales, junk yards and salvage yards.
 12. Dry cleaning facilities.

Section 415: Technological Structures

Construction of technological structures shall be subject to public hearing and determined on a case by case basis by the Development Review Board. Such structures may include, but shall not be limited to, communication towers, solar panels and wind generators.

Section 416: Mobile Home Parks

The following regulations shall apply in respect to all mobile home parks, including the enlargement of an existing mobile home park:

- A. A mobile home park shall have an area of not less than fifteen (15) acres.
- B. Each mobile home lot shall be at least 22,500 square feet in area, and at least sixty (60) feet wide by at least one hundred and twenty (120) feet in depth, and shall front onto an access driveway.
- C. The width of all access driveways in a mobile home park shall be determined by the maximum daily volume of traffic each access driveway is expected to accommodate as follows:

VEHICLES/DAY	ACCESS DRIVEWAY WIDTH
0-50	20 Feet
51-100	24 Feet

All access driveways shall have a minimum depth of twelve (12) inches of gravel.

- D. Graveled or paved surface for parking at least 18' x 22' shall be provided on each mobile home lot.
- E. Mobile home parks shall provide at least sixty (60) percent of the total area for recreation, open space and infrastructure requirements, i.e. water, sewer, roads, electricity and other services.
- F. Each lot shall have a minimum three (3) foot wide hard surface walkway from street right way line to mobile home entrance.
- G. Each mobile home lot shall have an attachment for water supply. The

water supply source must be approved by the State Department of Health.

- H. Each mobile home lot shall have an attachment for municipal sewage disposal.
- I. No mobile home lot, office or service building shall be closer to a public street right of way than eighty (80) feet, nor closer to a property line than fifty (50) feet.
- J. A strip of land at least one hundred (100) feet in width shall be maintained as a landscaped area abutting all mobile home park property lines.
- K. No mobile home shall be parked on a lot closer than thirty (30) feet to a lot line.
- L. No additions shall be made to a mobile home except a canopy and/or porch open on three (3) sides, or an addition made by the mobile home manufacturer.

ARTICLE V: LOT SIZE, SETBACKS, YARDS

The following requirements apply to all uses shown as Permitted (P) and Permitted with Site Plan Review (S) in Article III, Table of Uses. Conditional Uses shall meet the requirements of Article IV unless more restrictive requirements are imposed by Article V.

DISTRICT	MIN. LOT SIZE	SETBACKS			MIN. LOT FRONTAGE	MIN. LOT DEPTH	MAX. BLD. HEIGHT (1)	MAX. LOT COVERAGE
		Front	Side	Rear				
RURAL RESIDENTIAL -RR - 2A	Two (2) Acres	50'	30'	50'	150'	200'	38'	10%
RURAL RESIDENTIAL - RR - 5A	Five(5) Acres	70'	50'	70'	200'	200'	38'	10%
RESIDENTIAL 40,000 - R-40	<u>40,000 sq. ft.</u> Non-Res. 2 acres (3)	50'	30'	50'	150'	200'	38'	<u>15%</u> 10%
RESIDENTIAL 20,000 - R-20	<u>20,000 sq. ft.</u> Non-Res. 2 acres (3)	40'	15'	40'	100'	150'	38'	<u>20%</u> 15%
VILLAGE COMMERCIAL	20,000sq.ft.(2)	40'	15'	40'	100'	150'	38'	20%
RECREATION COMMERCIAL	varies (3) (2)	50'	30'	50'	100/150 Ft.	150/200 Ft.	38'	15%

INDUSTRIAL (20 acres)	20,000 sq.ft.	40'*	15*	40'*	100'	150'	38'	25%
COLLEGE CAMPUS	20,000 sq.ft.	40'	15'	40'	100'	150'	38'	10%
ACCESSORY BUILDING		40'	10'	20'			29'	
Flood Hazard REQUIREMENTS AS IN UNDERLYING DISTRICT								

(1) See Article IX for definition

(2) If no municipal sewer minimum lot size is one acre (Refer to Section 1102)

(3) Residential Use (Refer to Section 1102): with municipal sewer - 20,000 sq. ft.; without sewer – 1 acre

Non-Residential Use: with municipal – 1 acre; without municipal sewer - 2 acres

' = feet

* = 100 feet if bordering residential zone

ARTICLE VI: PARKING AND LOADING

Section 601: Off-Street Parking Space General Requirements

- A. The dimension of a parking space shall be at least 9 feet x 20 feet, except that it may be reduced to 8 feet 6 inches x 20 feet when such parking spaces shall be used solely by apartment residents or business employees who use such spaces on a non-transient basis (car parked for at least 3 hours in the same space).
- B. Parking spaces will not be permitted directly in front of entrances or exits to buildings. These areas shall be designated as loading areas (passenger or other).
- C. All parking areas must meet Americans with Disabilities Act requirements.
- D. Driveways serving multi-family residential uses and all non-residential uses shall be so arranged that vehicles are not required to back onto a public road on entering or leaving.
- E. In residential districts, required parking may not be located in the front setback, unless on a driveway on a permitted curb-cut. Pavement shall not replace lawns or planted areas in the front setback, exclusive of driveways.
- F. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Shielded fixtures shall be used.
- G. All open off-street parking areas containing more than four (4) parking spaces and all off-street loading areas shall be screened on each side by a wall, fence, or densely planted hedge not less than three (3) feet nor more than five (5) feet in height, adjoining or fronting on any property in a residential district.
- H. Parking areas shall be located on the same lot as the principle use except as otherwise provided.
- I. Parking spaces for any number of separate uses may be combined in one parking lot. Pooled or group parking facilities must meet the provisions of Section 604.

- J. Parking and loading areas, access drives, entrances, and exits shall be paved or covered with crushed rock except that for residential uses gravel may be substituted for crushed rock. Permanent bumper guards or wheel bumpers shall be required in those locations of the parking and loading area where a matter of safety is involved. Provision shall be made to prevent vehicles from overhanging any sidewalk area.
- K. Adjacent areas shall be properly protected against headlight glare from parking and loading areas by means of a fence, wall, berm or hedge having a maintained height of not less than three (3) feet, nor more than five (5) feet based on topography.

Section 602: Parking Space Requirements

Residential	Two (2) spaces per dwelling unit
Multi-family dwellings	One (1) per dwelling unit plus one half (½) per bedroom
Home Occupation	Two (2) spaces in addition to the requirements for the dwelling
Resident professional person	4 plus residential requirement
Place of assembly	One (1) space for every four (4) seats
Club (golf, tennis, swimming, or other sport)	To be determined on a case by case basis by the Development Review Board
Clinics, convalescent hospitals, sanitariums, homes for the aged or children	1 per 5 beds plus 1 per staff
Medical, dental offices	To be determined on a case by case basis by the Development Review Board
Offices, banks, unless otherwise specified herein	1 per 200 square feet of usable floor area
Retail	1 per 200 square feet of usable floor area
Restaurants	1 per 3 persons (seated and taverns standee capacity)
Business, Office, Laboratory	2 per 3 employees
Commercial recreation	To be determined on a case by case basis by Development Review Board.
Auto service station	1 per employee
Drive-in Establishment	1 per employee, plus 5 reservoir spaces per operating window or staff

Light Manufacturing	Two (2) spaces per three (3) employees
Funeral Home	10 parking spaces plus 1 space for every 2 employees
Wholesale Warehouse	One (1) per employee (for maximum per shift)
Commercial (not otherwise listed above)	1 per 300 square feet of usable floor area
Other Uses	For those uses not defined above the Development Review Board shall use the parking standards published by the Institute of Traffic Engineers, current edition or its best reasonable judgment.

Section 603: Non-Residential Loading Areas

- A. One (1) off-street loading space not smaller than fifteen (15) feet wide by twenty-five (25) feet long by fifteen (15) feet high (if covered) shall be provided.
- B. One (1) additional loading space shall be provided for each twenty thousand (20,000) square feet of floor area, or part thereof, for any floor area exceeding twenty thousand (20,000) square feet.
- C. Loading surfaces shall be paved or covered with crushed rock.
- D. Loading facilities shall be located in the rear or side yards and not encroach on required buffer areas.

Section 604: Pooled or Group Parking Facilities

- A. For nonresidential uses, two (2) or more distinct and separate establishments may decide to pool or group their parking facilities subject to these conditions:
 - 1. The number of curb cuts will be reduced;
 - 2. The spaces are located behind buildings and/or well screened from the road and, where necessary, other properties;
 - 3. Vehicular circulation is improved; and
 - 4. The appearance of the particular area is enhanced.
- B. The minimum number of parking spaces for such pooled or grouped parking facilities shall be not less than ninety (90%) percent of the

number of parking spaces otherwise required.

- C. Evidence of a suitable pooling agreement.
- D. Pooled parking space shall be provided within five hundred (500) feet from the main entrance of the building, measured along a street or way which gives access thereto.

ARTICLE VII: NONCONFORMING USES/NONCOMPLYING STRUCTURES

Section 701: Construction Approved Prior to Adoption or Amendment of Regulations

Nothing contained in these Regulations shall require any change in a non-complying structure or a nonconforming use which existed, or was substantially completed by, prior to the adoption of this bylaw and conforms to the regulation then in effect.

Section 702: Scope

Any lawful use of land or a building existing at the date of passage of these Regulations and located in a district in which it would not be permitted as a new use under the provisions of these Regulations, is hereby declared to be a nonconforming use, and not in violation of these Regulations at the date of adoption of these Regulations; provided, however, a nonconforming use shall be subject to the provisions of Sections 703-705 below.

Section 703: Change of Nonconforming Use

A nonconforming use may be changed to another nonconforming use only with the approval of the Development Review Board and then only to a use which, in the opinion of the Board, is of a lesser, or no more objectionable than the current use and providing that no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use, it shall not revert to a nonconforming use.

Section 704: Extension of a Nonconforming Use

With the approval of the Development Review Board a nonconforming use may be extended throughout the existing building, provided no structural alterations or changes are made therein, except those required by law or ordinance or as may be required for safety or necessary to secure or insure the continued advantageous use of the building during its lifetime.

Section 705: Enlargement of a Nonconforming Use

Shall not be moved, enlarged, altered, extended, reconstructed, or restored except on approval of the Development Review Board after a Public Hearing or Public Notice according to all these standards:

- A. All provisions of these Regulations, except type of use, are complied with
- B. No adverse effect on traffic in the vicinity
- C. No adverse effect upon surrounding property
- D. An increase in gross area not more than 50 percent of the total ground area covered by the building on the date of adoption or amendment which made it non conforming.
- E. The use, if located in the Flood Plain District, meets the requirements of the Sections 1104 and 1208.

Section 706: Restoration of a Nonconforming Structure (See definition in Article IX)

Any nonconforming structure, which has been destroyed or damaged by fire, explosion, act of God, or by vandalism or public enemy, such structure may be restored as existed before such damage.

Section 707: Discontinuance of Nonconforming Use (See definition in Article IX)

Any nonconforming use shall not be restored for other than a conforming use after damage from any cause, unless the nonconforming use is reinstated within 18 months of such damage; if the restoration of such building is not completed within 18 months, 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 708: Maintenance of a Noncomplying Structure

A non-complying structure may be normally maintained and repaired provided that such action does not increase the degree of non-compliance.

Section 709: Expansion of a Noncomplying Structure with Conforming Use

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

Nonconforming structures with conforming use may be continued indefinitely, but:

- A. Shall not be moved, enlarged, altered, extended, reconstructed or restored except upon approval of the Development Review Board following a public hearing after public notice if the Board finds and concludes that:
 - 1. there will be no significant adverse effect on traffic in the vicinity;
 - 2. there will be no significant adverse effect upon surrounding property; and
 - 3. there will be an increase in area not to exceed ~~15% of the total ground area covered subject to Article V restrictions.~~ Nonconforming setbacks cannot be made more nonconforming and conforming setbacks cannot be made nonconforming. ~~The maximum lot coverage includes accessory buildings. However, structures may be moved toward the center of a lot provided the sum total of the side setbacks is not decreased.*~~
- B. This section shall allow, upon approval of the Development Review Board, the addition of a second story on a non-conforming structure that is a conforming use. Any such second story shall not be considered an expansion of nonconformity.
- C. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of nonconformity.

Section 710: Nonconforming structure(s) in areas of special flood hazard

The Development Review Board may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a non conforming structure within a regulated flood hazard area, subject to compliance with [Section 520] and provided that the following criteria are met:

- A. The Board finds that the repair, relocation, or enlargement of such non conforming structure is required for the continued economically feasible operation of a non residential enterprise; and
- B. The Board finds that the repair, relocation, or enlargement of a non conforming residential or non residential structure will not increase flood levels in the regulatory floodway, threaten the health, safety and welfare of the public or other property owners; and
- C. The permit, so granted, shall state that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, may not be eligible for any flood insurance which may pertain to regulated flood hazard areas, and will be maintained at the risk of the owner; and
- D. A copy of such permit shall be affixed to the copy of the deed of the concerned property on file in the municipal clerk's office.

ARTICLE VIII: SITE PLAN APPROVAL

Section 801: Scope

A zoning permit shall be issued by the Administrative Officer for any one and two family dwellings and accessory uses which are not used for home occupations.

Any other permit shall not be granted except by order of the Development Review Board.

Section 802: Submission of Site Plan and Supporting Data

- A. The owner and/or applicant shall submit seven (7) sets of the site plan and supporting data to the Administrative Officer which shall include the following information presented in drawn form and accompanied by written text.
 - 1. Name and address of the owner of record of this and adjoining lands; name and address of applicant - if different than owner; name and address of person or firm preparing the plan; description of the property giving location; scale of map, north point, and date.
 - 2. Survey of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-

of-way, land use and deed restrictions, zoning classification, existing surface waters (i.e. brooks, ponds), if any, and the location of proposed structures with indicated distances from lot lines.

3. Site plan showing proposed structure(s), locations and land use areas; streets, access points, driveways, traffic circulation, parking and loading spaces and pedestrian walks; utilities both existing and proposed, including placement of poles; water wells and sewage treatment facilities; landscaping plans, including site grading, planting design, screening or fencing, detailed specifications of planting and landscaping materials to be used; existing and proposed above ground equipment such as propane tanks and transformers.
4. Construction sequence and anticipated time schedule for the completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
5. Written certification that the applicant has notified all adjoining property owners;
6. Any of the above information can be waived at the discretion of the Development Review Board.

A request for a waiver shall be submitted to the Development Review Board and shall specify which portions of Sections 801 A1-5 are requested for waiver. The applicant shall include a preliminary site plan providing sufficient information upon which the Development Review Board can make a decision. The Development Review Board may request additional information.

A request for a waiver shall not be considered as submission of a site plan in relation to Section 810.

- B. The Administrator shall check to see if all required information has been submitted and the fee paid and, if so, shall submit the completed application to the Development Review Board. Incomplete applications shall be returned to the applicant.

Section 803: Landscaping Requirements

- A. In determining the amount of planting to be required, the Development Review Board shall take into account:

1. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.
2. Visibility of incompatible or unsightly areas from roads and/or adjoining properties.
3. The need to effectively screen all parking areas from roads and adjacent properties.
4. Proximity of lots used for residential purposes.

B. Specific Landscaping Requirements.

1. All new parking lots may be required to be screened by a strip not less than 15 feet in width with suitable plantings, screening or landform.
2. All plantings, when initially installed, are to be of a size and shape approved by the Development Review Board. If the Development Review Board determines that the landscaping plan is appropriate, but that it will take several years for the plantings to accomplish the screening or buffering goals, the Development Review Board may require that fencing be installed during the interim.
3. If the Development Review Board determines that plantings are not appropriate, it may require suitable fencing.
4. The remainder of the required yard space shall be landscaped and maintained in good appearance.
5. Where new commercial uses are located adjacent to residential buildings, there shall, to the extent practicable, be plantings or attractive solid fencing to screen out all outdoor lighting from the view of the ground floor of the adjacent residential buildings.
6. All landscaping shall be completed and maintained in accordance with the site plan as approved by the Development Review Board. Any dead or diseased planting shall be replaced as soon as seasonally possible.

Section 804: Parking and Loading Facility Requirements

The Development Review Board may require the paving of parking and loading facilities.

Section 805: Pedestrian Circulation Requirements

- A. The Development Review Board may require pedestrian walkways to facilitate pedestrian movements.
- B. In all districts, the Development Review Board may require provision for pedestrian trails and walkways along waterways or other natural features to connect with similar present or anticipated trails on adjacent properties.

Section 806: Access Requirements

- A. The Development Review Board may require service roads connecting to public roads, with provision for connection to similar service roads on adjacent property where it feels that limiting the number of intersections to the public road is in the interest of the health and safety of the community.
- B. All roads, regardless of whether they are to be taken over by the Town, shall be constructed and maintained to allow year round access by emergency vehicles.

Section 807: Site Plan Review Procedure

The Development Review Board shall review the site plan map and supporting data taking into consideration the following:

- A. Maximum safety of pedestrian and vehicular circulation between the site and the street network including location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distance improvements, shared access with adjoining properties, and location of sidewalks and/or other walkways. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to emergency access.
- B. Adequacy of parking and loading facilities. Adequacy of on-site circulation, parking, and loading facilities, with particular attention to

safety including aisle widths to accommodate emergency vehicles, traffic movement patterns and location of parking areas to prevent conflicts with entering and exiting traffic onto a public street, location of loading docks and number and size of parking spaces.

Particular consideration shall be given to the effect of noise, glare, or odors on adjoining properties. Refuse and service areas shall be included. Provisions for snow removal shall also be made.

- C. Adequacy of landscaping and screening with regard to achieving maximum compatibility and protection to adjacent property. Particular consideration shall be given to the preservation of existing vegetation, visibility of unsightly or incompatible areas from the road and adjoining properties, and the adequacy of landscaping materials to meet seasonal conditions, soil conditions, and light on the site.
- D. Protection of renewable energy resources. Particular consideration shall be given to the appropriate siting of buildings in order to maximize access for solar gain to the property and adjacent properties.
- E. Handicapped accessibility

Section 808: Bond

The applicant may be required to provide a suitable performance bond or other form of security to guarantee the performance and completion of all planting required pursuant to this section.

Section 809: Amendments

Amendments to approved site plans may be made after submitting a revised application for review and approval by the Development Review Board.

Section 810: Time for Action

The Development Review Board shall act to approve, approve with conditions or disapprove any site plan within forty-five (45) days of the public hearing adjournment. Failure to so act within such period shall be deemed approval.

ARTICLE IX: DEFINITIONS

Except where specifically defined herein, all words used in these Regulations shall carry their customary meaning. 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. Doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Development Review Board.

ACCESSORY BUILDING OR USE

A building or use incidental, subordinate, and reasonably necessary to the conduct of the principal building or use and located on the same lot as the principal building or use. (~~Applies only to residential uses~~)(See Article III, Table of Uses, for applications) *

ACCESSORY DWELLING UNIT

An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

ACT

The Vermont Municipal and Regional Planning and Development Act (VSA Title 24, Chapter 117), as amended from time to time.

ADMINISTRATOR

The Federal Insurance Administrator.

ADMINISTRATIVE OFFICER

Refers to the Town's Zoning Administrator or the person appointed to administer the zoning regulations.

AFFORDABLE HOUSING: means either of the following:

- Housing that is owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or

- Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. 24 V.S.A. § 4303(1) (A).

AGRICULTURAL USE

Land which is used for raising livestock, or agricultural or forest products, including general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry, dairying, apiary, truck gardening, keeping of poultry, farm structures and the storage of agricultural equipment; and, as an accessory use, the sale of agricultural products.

ALTERATION

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

APEX

A point on an alluvial fan or similar land form below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING

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

AREA OF SPECIAL FLOOD HAZARD

The land in the flood plain 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 ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1, 30, AE or A99. The above zones are regulated flood hazard areas.

AUTOMOBILE SERVICE STATION

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as

engine overhauls, automobile painting, and body fender work are conducted. A retail store with gasoline pumps as a secondary use, often referred to as a mini-mart, is also considered an auto service station.

AUTOMOTIVE REPAIR SHOP

Any lot or area of land, including the building or buildings thereon, which is used for the purpose of making major or minor repairs to motor vehicles, including painting, body work, and the sale of automotive parts, and provided that all motor vehicles located on the premises are for repair or rebuilding and not for salvage.

BASE FLOOD

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

BASEMENT

The foundation or lowest part of a building wholly or partly below the surface of the ground.

BASEMENT - WALK IN/OUT

Foundation or lowest part of the building wholly or partly below the surface of the ground constructed to allow ingress and egress to the basement.

BED AND BREAKFAST

A housekeeping unit in which the resident owner shall live on the premises and provide short term lodging (on a less than weekly basis) to paying guests. It shall contain no more than six (6) guest rooms with one parking space required for each guest room.

BUILDING

A structure designed, built or occupied as a shelter or roofed enclosure for persons, animals, or property.

BUILDING FRONT LINE

Line parallel to the front line transecting that point in the building face which is closest to the front lot line excluding steps.

BUILDING HEIGHT

The vertical distance measured from the proposed finished grade at the front of the building to the highest point of the roof. For a building set into a hill or slope, with a walk-in/out basement, building height will be the vertical distance measured from the proposed basement floor to the highest point of the roof. Building height provisions shall not apply to agriculture structures.

BUSINESS SERVICE

Any business activity which renders service to other commercial or industrial enterprises but limited to financial institutions, clerical services, consulting and similar services, but not including manufacturing, repairing, processing or fabrication of any article, substance or commodity.

CLINIC

Any establishment where human patients are examined and treated by doctors or dentists but not hospitalized overnight.

CLUB, PRIVATE

Any establishment operated for social, recreational, or educational purposes, open only to members and their guests, and not operated primarily for profit. Private club shall not include a fraternity or sorority house.

COTTAGE INDUSTRY

An activity, carried out in a dwelling or accessory structure, such as home offices, repair services (not including motor vehicles), business and personal services, and goods produced or manufactured on site and which meets the conditions of Section 403.

COVERAGE

See lot coverage.

CUL DE SAC

A dead end road, street, or right of way with a vehicular turn around at the end that complies with the Town of Castleton Subdivision Regulations.

DAY CARE FACILITY

A state registered or licensed facility serving seven or more children or elders.

ESSENTIAL SERVICES

The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies or public buildings and generating or processing plants, transportation facilities, underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate services by such public health or safety or general welfare.

FAMILY

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

FENCES

The provisions of these regulations shall not apply to fences (six feet in height or less) provided they do not obstruct or interfere with traffic visibility or violate Title 24 V.S.A., Section 3817.

FIA

Federal Insurance Administration.

FLOOD HAZARD BOUNDARY MAP (FHBM) - An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e. mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM)

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

An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD PLAIN

The area generally encompassed by the 100 year flood boundaries including the floodway and floodway fringe. See "Area of Special Flood Hazard."

FLOOD PROOFING

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

FLOODWAY

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

FOOTPRINT AREA

The total ground area covered by a roof, to include a covered porch, covered deck, or covered entryway.

FRONT LOT LINE

The line separating the lot from the street or road right of way. If a lot abuts more than one street or road, each line is a front lot line.

GARAGE, YARD OR SIMILAR SALES

The sale of personal property on the premises of a dwelling unit for a period not exceeding three (3) consecutive days and not more than nine (9) days in a calendar year. A sale or sales of a longer duration shall be deemed a commercial use.

GROUP HOME

Any residential facility operating under a license or registration granted or recognized by a state agency, that serves more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs. See also Residential One Family

HANDICAPPED ACCESSIBLE ACCOMODATIONS

The Development Review Board may exempt reasonable handicapped accessibility accommodations from the footprint, setbacks, or total lot coverage restrictions.

HISTORIC SITE

An area deemed worthy of preservation for historical reasons. The area may be so classified by federal, state or local authority.

HISTORIC STRUCTURE

Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of 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 states 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;
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION

Any use conducted entirely within a primary residence and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the residence for living purposes and does not change the residential character thereof. Section 1003 applies.

HOTEL

A building (other than a motel, rooming house, or bed and breakfast), used to provide overnight accommodations, with or without meals, to the public for compensation.

HOUSEKEEPING UNIT (FORMERLY DWELLING UNIT)

Building or part thereof used as living quarters for one family.

JUNK YARD (REF. 24 VSA #2241)

The terms "junk", "junk motor vehicles" and "junk yard" shall be as defined in 24 VSA #2241. Any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping three (3) or more unlicensed motor vehicles which are visible from any portion of a public highway or adjoining property.

KENNEL

An establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

LOADING SPACE

Space logically and conveniently located for-pickups and deliveries, scaled to the delivery vehicles expected to be used. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT

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

LOT COVERAGE

For residential, commercial, industrial, institutional and multi-family uses, the percentage of the area of a lot which is covered by structures and other improvements. ~~including parking, loading and service areas, and access roads.~~ *Decks, unroofed porches*, lawns, planting areas, walkways, and pedestrian amenities shall not be considered improvements for the purposes of calculating lot coverage.*

LOT DEPTH

The mean distance between the front and rear lot lines, measured at right angles to the front lot lines.

LOT FRONTAGE

The boundary of a lot along a public street.

LOT, MINIMUM AREA OF

The horizontally projected area of a lot computed exclusive of any portion of the right way of any public thoroughfare.

LOT OF RECORD

Any lot which individually, or as a part of a subdivision has been recorded in the office of the Clerk of the Town of Castleton.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the National Flood insurance Program Regulations.

LOW INCOME HOUSING

Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household

income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

MANUFACTURING

The processing and fabrication of any article, substance or commodity.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain 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. A mobile home is a manufactured home.

MANUFACTURING, LIGHT

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

MEAN SEA LEVEL

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.

MOBILE HOME

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

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies

with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

MOBILE HOME PARK

Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

MODERATE INCOME HOUSING

Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

MODULAR (OR PREFABRICATED) HOUSING

A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation; or a factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

MOTEL

A building or group of buildings intended to provide sleeping accommodations, with or without meals, having a private outside entrance for each room or suite of rooms and are rented primarily to transients.

NON-CONFORMING 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. 24 VSA 4303 (13).

NON-CONFORMING STRUCTURE

A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. 24 VSA 4303 (14).

NON-CONFORMING USE

Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer. 24 VSA 4303 (15)

NURSING OR REST OR CONVALESCENT HOME

A place, other than a hospital which maintains and operates facilities, for profit or otherwise, accommodating two or more persons unrelated to the home operator, who are suffering from illness, disease, injury or deformity and require in house nursing care.

OFFICE

A place where a particular kind of business is performed such as real estate, government or insurance.

OFFICIAL ZONING MAP

The one true copy of the Town Zoning Map is located in the office of the Town Clerk.

OPEN LAND RECREATION

Any use, which by its very nature, requires that large land areas be maintained in their natural or nearly natural state.

OPEN SPACE

Those areas within a lot or parcel of land that are not paved, roofed or occupied by structures and are equally accessible to all users of the property or development. Examples of outdoor areas that will not be considered open space are private yards, streets and drives, parking lots, tennis courts, swimming pools, and paved pedestrian malls. Meadowlands, woodlands and other natural areas, playgrounds, golf courses, and recreation fields will be considered open space.

PARKING SPACE

A defined space, which is at least 20 feet long and nine (9) feet wide, used for the parking of one motor vehicle, with practical access to the road or right of way, and graveled (or paved) sufficiently to provide year round use.

PERMITTED USE

A use which shall be permitted upon approval of the Administrative Officer after ascertaining that such use conforms with all Regulations herein.

PERSONAL SERVICES

Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio, and business providing similar services of a personal nature.

PROFESSIONAL RESIDENCE-OFFICE

Residence in which the occupant has a professional office of an architect, accountant, chiropractor, dentist, doctor of medicine, landscape architect, land surveyor, lawyer, optometrist, osteopath, physiotherapist, consultant, podiatrist, engineer, or psychologist, which does not change the residential character thereof. Section 1003 applies.

PROFESSIONAL SERVICES

Includes but is not limited to doctor, dentist, lawyer, engineer, certified public accountant, real estate appraiser, architect, chiropractor, and similar professions.

RECREATION, PRIVATE

Recreation uses privately owned and operated, including picnic grounds, archery ranges, hiking and riding trails, hunting and fishing areas, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites, golf driving range, golf pitch and putt course, par three golf courses, hunting preserves, skating rinks, swimming pools, parks, beaches, tennis courts, indoor bowling alley, theater, table tennis and pool hall, gymnasium, health club, hobby workshop, archery range, riding stables.

RECYCLING COLLECTION POINT

A use incidental to the principal use that serves as a drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi public areas such as churches and schools. In Castleton the only allowed facility is located at the transfer station. This does not refer to bottle redemption.

RELIGIOUS INSTITUTION

Includes but is not limited to church, temple, school, seminary and retreat house, parish home, and convent.

RESIDENTIAL, ONE FAMILY

A building designed and/or used exclusively for residential purposes for one (1)

family and containing not more than one (1) HOUSEKEEPING unit.
Detached building used as living quarters by one family.

A state licensed or registered residential care home or group home serving not more than eight persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a permitted single family residential use except that no such home shall be so considered if it locates within 1,000 feet of another such home.

A state registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a permitted single-family residential use of property.

RESIDENTIAL, TWO FAMILY

A building or portion thereof designed or used for occupancy by two (2) families living independently of each other and doing their own cooking in the building. Building used as a living quarters by two families, living independently of each other.

RESIDENTIAL, MULTIPLE FAMILY

A building or portion thereof used for occupancy by three (3) or more families living independently of each other, and doing their own cooking in the building, including but not limited to apartments, group houses, and row houses. A fraternity and/or sorority house shall be considered a multiple family residence.

RESTAURANT

An establishment where meals can be bought and consumed either on or off the property.

RETAIL STORE

Includes shop and store for the sale of retail goods; personal service shop and department store; and shall exclude any gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

ROOMING AND BOARDING HOUSE

A building, residential in character, where more than two persons for a fixed period of time are supplied with, and charged for meals or sleeping accommodations or both.

SCHOOL

Includes parochial, private, public and nursery school, college, university and

accessory uses; and shall exclude commercially operated school of beauty culture, business, dancing, driving, music, daycare and similar establishments.

SELF-SERVICE STORAGE FACILITY

A building or group of buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

SETBACK

The distance from a front lot line, side lot line, or rear lot line to a building or other structure, measured to its nearest wall, porch or deck whether enclosed or unenclosed, but not to steps or normal roof overhang.

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.

SIGN, ADVERTISING OR BILLBOARD

Sign which directs attention to a business, industry, profession, service, commodity, or entertainment conducted, sold or offered somewhere other than the lot upon which the advertising sign or billboard is located.

SITE PLAN

A plan, to scale, showing uses and structures proposed for a parcel of land as required by these regulations. It includes lot lines, streets, building sites, open space, buildings, major landscape features, and proposed utility lines, if any.

STREET

A thoroughfare, road, highway or public way open and available to public use. "Street" shall mean the entire width of the right of way.

STREET LINE

The line dividing the street and a lot. Where the width of a street is not established or cannot be determined, the street line shall be considered to be 25' on either side of the center of the traveled portion of the street, except along Vermont numbered Route 30 and Route 4A where the street line shall be 33' and 49', respectively, from the centerline unless otherwise established.

STRUCTURE

An assembly of materials for occupancy or use including, but not limited to, buildings, billboards, signs, mobile homes, trailers, carports, porches, decks,

and other building features. This does not include sidewalks, drives, and patios, water impoundments, communication towers, walls or fence, except a wall or fence on an operating farm or a small shed typically used for storage and not exceeding 120 (one hundred twenty) square feet.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

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

TOWN BOARD

The Select Board of the Town of Castleton.

TRAILER

Includes any camping trailer, travel trailer, pickup coach or motor home and/or any other vehicle used as sleeping or camping or living quarters mounted on wheels; or a camper body usually mounted on a truck and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, or boats; or is used as a temporary office.

USE

The specific purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or intended.

ZONING PERMIT

Shall mean the same thing as building or use permit.

ARTICLE X: GENERAL REGULATIONS

Section 1001: Existing Small Lots

Any lot in individual, separate and non-affiliated ownership from surrounding

properties in existence on the effective date of these Regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet.

Section 1002: Required Frontage on, or access to, Public Roads or Waters

Land development may be permitted only on lots which either have frontage on a public road or public waters or, with approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way.

All such access, except legally pre-existing access, must be at least twenty (20) feet in width.

Section 1003: Protection of Home Occupations

Residents may use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of those areas as long as:

- A. The dwelling and the lot maintain a residential appearance at all times;
- B. The home occupation is clearly secondary to the use of the site for residential purposes. No more than 300 sq. ft. or 20% of the floor area of the dwelling, (whichever is greater) shall be used for the home occupation.
- C. The home occupation is operated by a person who is a legal resident on the site of the dwelling. In the case of seasonal residents, the home occupation may be operated only at those times when the seasonal resident is occupying the dwelling on the site.
- D. No more than two additional persons, who are not family members residing presently on the site, may be employed in the business.
- E. Home occupations include such activities as home offices, professional office-residence, repair services, business and personal services offered from the home, and retail sales of goods produced on-site.
- F. The use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the

applicable zoning district.

- G. Exterior displays or signs, other than those normally permitted in the district, or exterior storage of materials are not permitted. Obnoxious or excessive noise, smoke, vibration, dust, glare, odors, electrical interference, or heat that is detectable at the boundaries of the lot are not generated.

All home occupations will be required to obtain a zoning permit. An application will be filed with the Administrative Officer who shall determine if the above general standards can be met, and, if so, will issue the permit.

Section 1004: Yard Setbacks

Notwithstanding the provision for front setbacks elsewhere in these Regulations, on roads with less than 50-foot right-of-way, the front setback requirements shall be measured from the center line of the existing roadway and 25 feet shall be added to that front setback requirement.

Section 1005: Equal Treatment of Housing

Nothing herein shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing, from the municipality, except upon the same terms and conditions as conventional housing is excluded.

Nothing herein shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in Section 4382(c) of Chapter 117 of Title 24 of the Vermont Statutes Annotated.

Nothing herein shall be construed to prevent the establishment of mobile home parks in accordance with Chapter 153 of Title 10 of the Vermont Statutes Annotated.

Mobile homes are permitted in approved mobile home parks subject to the requirements of this section and state law. Mobile home parks where permitted as a conditional use in the specific zoning district are subject to review under Section 416 of these bylaws. New mobile home parks and any addition or alteration to an existing mobile home park, requires conditional use approval by the Development Review Board.

Section 1006: Residential – Accessory Dwelling Unit

- A. An accessory dwelling unit may be located in or appurtenant to an owner occupied single family residence. An accessory dwelling unit means an

efficiency or one-bedroom apartment that is clearly subordinate to a single family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

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

B. If the single family dwelling is no longer owner occupied, the continued use of the accessory apartment requires application to the Zoning Administrator as a two family dwelling.

Section 1007: Lot Limitations

Residential lots shall be restricted to one principal building. The exceptions are planned residential development and working farms.

Section 1008: Lots in More Than One Zoning District

Where a district boundary line divides a lot or parcel of land, the Development Review Board may permit the extension of the regulations for either portion of the lot not to exceed 100 feet beyond the district line into the remaining portion of the lot.

Section 1009: Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these Regulations shall be smaller than prescribed for the district in which the lot is located.

The provisions of this section shall not apply when part of a lot is taken for a public purpose.

Section 1010: Required Area or Yards

Space required under these regulations to satisfy area, yard or other open space requirements in relation to one building shall not be counted as a part of a required open space for any other building.

Section 1011: Temporary Structures

Temporary permits may be issued by the Administrative Officer for a period not exceeding one year, for temporary structures incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

Section 1012: (Reserved for future use)

Section 1013: Trailers/Motorhomes/Trailer Camps

- A. It shall be unlawful for any person to park a camping trailer, travel trailer, pick up coach, or motor home on any public or private property, except in accordance with these Regulations as follows:
 - 1. In an approved trailer camp.
 - 2. In an approved camping trailer sales lot.
 - 3. The owner of a trailer may park it on his own property, in the rear or side yards, providing that the trailer is parked behind the front face of the principal building and no closer than six (6) feet to any lot line. A trailer so parked shall not be used as living quarters and shall not be hooked up to any utilities.
- B. No person or persons shall construct or operate a trailer camp without a permit from the Development Review Board. The application shall be accompanied with a site plan and drawing prepared by a professional engineer, showing the property lines and area of the park, a contour map, a layout of the roads, walkways, trailer lots, parking areas, garbage collection stations, electrical distribution, water lines, sanitary sewer facilities, storm sewer drainage facilities, and any other utilities.
- C. The following regulations shall apply in respect to all trailer camps:
 - 1. A trailer camp shall have an area of not less than three (3) acres.
 - 2. Trailer camps shall provide for individual trailers, access driveways and parking.

3. Each trailer lot shall be at least 22,500 square feet in area, and at least sixty (60) feet wide by at least one hundred twenty (120) feet in depth, and shall front onto an access driveway.
4. All access driveways within a trailer camp must be at least twenty (20) feet in width and have a minimum depth of twelve (12) inches of gravel.
5. Each trailer lot shall have a water supply approved by the State Health Department.
6. Each trailer lot shall have provision for public toilets and sewage disposal. The method of sewage disposal must be in compliance with the State Department of Health regulations, and local health ordinances.
7. No trailer lot or service building shall be closer to a public street right way line than eighty (80) feet, nor closer to a property line than fifty (50) feet.
8. A strip of land at least one hundred (100) feet in width shall be maintained as a landscaped area abutting all trailer camp property lines.
9. No trailer shall be parked on a lot closer than thirty (30) feet to a lot line.
10. The trailer camp shall be closed to the public between November 1st and March 31st over winter, unless winterized water and sewage facilities are provided as approved by the State Department of Health.

Section 1014: Height of Structures

No structure shall exceed a height applicable to the district. This limit shall not apply to spires, cupolas, chimneys, ventilators, tanks, or similar parts of building, occupying in the aggregate not more than 10 (ten) percent of the area of such building.

This limit shall not apply to television aerials, communication towers or to windmills with blades less than 20 (twenty) feet in diameter or to rooftop solar collectors less than 10 (ten) feet high which are mounted on complying structures.

Section 1015: Building Coverage, ~~Open~~ Porches, Carports and Garages*

In determining the percentage of building coverage of a lot or the size of yards, porches or carports open at the sides but roofed, and all principal and accessory buildings shall be included.

Section 1016: Accessory Buildings in Residential Districts

Each residential use in a residential district may have not more than three detached outbuildings, garages, carports, storage sheds, greenhouses or similar accessory use buildings on a lot.

All other uses in a residential district may have no more than one accessory use building ~~which must be attached to the main building on the lot.~~*

Section 1017: Permitted Hours of Construction

The operation of heavy equipment or noise generating construction activity shall occur only between 6 AM and 7 PM.

Section 1018: Open Storage

No more than one unregistered or unlicensed vehicle, or open storage is permitted in any District and such storage shall not be in the front yard.

In any residential district only the following are allowed and they must be permanently screened from view:

- A. Vans and trucks of more than twelve ton carrying capacity that are used for commercial purposes;
- B. Cars used for the purposes of competitive racing;
- C. Items used for commercial purposes i.e. "junkyards", "antiques".

Any open storage on land adjacent to a residential district must be permanently screened from view, even if in the side or rear yard.

Nothing in this section shall prohibit open storage related to agricultural uses in any District.

Section 1019: Pools

A zoning permit shall be required for pools greater than 5000 gallons capacity. A private in ground outdoor swimming pool is required to have a wall or fence at least four feet (4') high, with a lockable gate, which extends around the entire pool.

Section 1020: Satellite Dishes - Accessory

Satellite dish antennas with diameter measuring less than one meter may be installed in a manner consistent with typical television antennas.

Section 1021: Exemptions from Zoning Permits

No zoning permit is required nor are setbacks applicable for the following:

- A. Fences, hedges, or walls along a property line which do not interfere with corner visibility. Fences, hedges, walls, trees or shrubs shall not be placed in a highway right of way. Fences with height in excess of six (6) feet shall be considered structures, subject to site review, and not exempt from this ordinance. Fences which are on operating farms or licensed junk yards shall be exempt from this ordinance.
- B. Decks and unroofed porches not over three (3) feet above the level of the floor of the ground story to the extent that:
 - 1. A deck or unroofed porch's depth from a dwelling structure's sidewall does not exceed ten (10) feet;
 - 2. A deck or unroofed porch shall not be closer than ten (10) feet to a property line, and;
 - 3. The total square footage of previously constructed and proposed decks will not exceed 300 square feet.
- C. Docks
- D. Doghouses, treehouses and similar structures may be located in any yard except the front yard.
- E. Sheds with a floor area of not more than 120 (one hundred twenty) square feet and height of not more than ten (10) feet may be located

- within any yard except the front yard.
- F. Any sign erected by the State of Vermont or the Town of Castleton for directional information or traffic control purposes.
- G. Essential services in any district except flood hazard areas where they shall be treated as conditional uses.

ARTICLE XI: ADMINISTRATION AND ENFORCEMENT

Section 1101: Administrative Officer

An Administrative Officer shall be recommended for a three year term by the Planning Commission with the approval of the Select Board to administer the Zoning Regulations. An Administrative Officer may be removed for cause at any time by the Select Board after consultation with the planning commission.

An acting Administrative Officer may be appointed by the Planning Commission, with the approval of the Select Board, who shall have the same duties and responsibilities as the Administrative Officer when that individual is absent.

The Administrative Officer shall literally administer this Regulation and shall not have the power to permit any land development which is not in conformance with this regulation. In so doing shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these Regulations.

An interested person may appeal any decision or act taken, by the Administrative Officer, by filing a notice of appeal with the secretary of the Development Review Board or with the clerk of the Town if no such secretary has been elected. Such notice of appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice shall be filed with such officer.

The Administrative Officer should inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the agency of natural resources, in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

The issuance of a zoning permit does not relieve the applicant's responsibility from obtaining any other required State or Federal permits or approvals as necessary.

Section 1102: Zoning Permits

- A. Hereafter the division of a parcel into two or more parcels, the construction, exterior reconstruction, conversion, structural alteration, relocation or enlargement of any building(s) or other structure(s), 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 shall commence only in compliance with all regulations in this bylaw for the district in which such building or land is located.

No land development or zoning permit shall be granted by the Administrative Officer that has not been issued the necessary State and local wastewater and water supply permits.

No land development shall be commenced in the Town of Castleton without a permit issued by the Administrative Officer. A permit may not be required for interior or exterior changes that do not change the permitted use or footprint of a structure.

No zoning permit shall be issued by the Administrative Officer except in conformance with these zoning regulations.

- B. All applications shall be submitted to the Administrative Officer on forms furnished by him/her and shall be accompanied by one copy of a sketch plan, drawn to scale, showing the dimensions of the lot to be built on, location of the building and accessory buildings to be erected, a surveyor's plot plan of the property, if available, and such other information as may be necessary to determine and provide for the enforcement of this Regulation.
- C. An application for any permit shall be accepted by the Administrative Officer only if it is complete, is accompanied by payment in cash, check or money order made out to the Town of Castleton for the amount of the specified fee. Fees shall be established and reviewed by the Select Board from time to time.
- D. The Administrative Officer shall within 30 days 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 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.

Each zoning permit issued under this section shall contain a statement of the period of time within which an appeal may be taken.

- E. Within three days following the issuance of a Zoning Permit, the Administrative Officer shall:
 - 1. Deliver a copy of the permit to the listers of the municipality.
 - 2. Post a copy of the permit in at least one public place in the municipality until the expiration of fifteen (15) days from the date of issuance of the permit;
 - 3. The applicant is responsible for obtaining any and all necessary state or local approvals or permits.

Section 1103: Zoning Permits: Flood Hazard District

In the Flood Hazard District, in addition to the above, every application shall contain the following additional information in order to meet the requirements of the National Flood Insurance Program floodplain management regulations (44 CFR Parts 59 and 60):

- A. The existing and proposed land contours, streams, roads, other pertinent physical features, buildings and structures.
- B. The elevation of the lowest habitable floor including basement of new or substantially improved structures and confirmation as to whether such structure contains a basement.
- C. Proposed location of fill and/or storage of materials.
- D. Proposed flood proofing measures and the level to which any structure will be flood proofed.
- E. Base flood elevation for subdivisions and developments which involve more than 50 lots or 5 acres (whichever is smaller).
- F. The status of all necessary permits required by Federal or State law.
- G. A description of the extent of which any watercourse will be altered or relocated as a result of the proposed development.

- H. Any clarifying or supplementary information and data necessary to pass upon the application.
- I. The relationship of the proposal to the location of the channel.
- J. The extent of the flood hazard area and the base flood elevation utilizing the best information available.
- K. Permitted open space uses (See Section 201.J.3.) shall be exempt from the requirements of paragraphs B, D, and E above.
- L. For conditional use, see Section 413.

Section 1104: Effective Date

If a zoning permit is issued, it shall not take effect until the expiration of a fifteen (15) day appeal period. In the event that notice of appeal is properly filed, such permit shall not take effect until the final adjudication of said appeal.

No site work or building shall occur until the effective date of the permit.

Section 1105: Completion

- A. All activities as authorized by the issuance of the permit shall be commenced within twelve (12) months and completed within two (2) years of the date of issue or the permit shall become null and void, and reapplication and reissuance of another zoning permit shall be required to complete the activities, as initiated under the original permit, except as hereinafter provided.
- B. If a project requires additional State and local permits, and such permits have been applied for, and are delayed by circumstances beyond the control of the permit holder, the Administrative Officer may extend the time limit for starting the project until not more than twelve (12) months after final approval by State or local authorities, by endorsement on all copies of the permit.
- C. Variances and Conditional Use approvals will expire two (2) years from their date of issuance unless the actions authorized by the Variance or Conditional Use approval have been completed. This time period may be extended for one (1) year only by the Administrative Officer if it is demonstrated that the delays were beyond the control of the applicant, and that conditions affecting and addressed by the approvals have not changed.

Section 1106: Enforcement

The Administrative Officer shall enforce the provisions of this Regulation in conformity with Sections 4451 and 4452 of Chapter 117 of Title 24 of the Vermont Statutes Annotated, annotated, which permits the Administrative Officer to institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate a violation.

No action shall be brought unless the alleged offender has had at least seven days notice by certified mail.

Section 1107: Exclusivity of Remedy

The exclusive remedy of an interested person with respect to any decision or act taken, or any failure to act with respect to any one or more of the provisions of this regulation shall be the appeal to the Development Review Board. (See 24 VSA 117, Section 4472 for exact language). Also see Section 1215.

Section 1108: Special Duties Relating to Flood District Permits

The Administrative Officer shall, to the extent possible, submit to the Federal Emergency Management Administration the information required by the Federal Emergency Management Administration Report Form with respect to the administration and enforcement of these flood hazard area bylaws. A copy of the Report shall be submitted to the State coordinating agency.

The Administrative Officer shall maintain a record of:

- A. all variance actions, including justification for their issuance;
- B. all permits issued for development in areas of special flood hazard;
- C. the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- D. the elevation, in relation to mean sea level, to which buildings have been flood proofed; and,
- E. all flood proofing certifications required under this regulation.

ARTICLE XII: DEVELOPMENT REVIEW BOARD

Section 1201: Creation of Development Review Board

There shall be a Development Review Board for the Town of Castleton.

Section 1202: Appointment and Term of the Board

A. Members.

The Development Review Board may consist of the members of the planning commission or may include one or more members of the planning commission. The board shall consist of not fewer than five nor more than nine persons. The Select Board may appoint alternates to the Development Review Board for a same term as the other members. Alternates shall serve on the Development Review Board in situations when one or more members of the board are disqualified or are otherwise unable to serve.

B. Appointment

Members of such Board shall be appointed and any vacancy filled by the Select Board. The term of each member shall be for three years and staggered so that a majority of the board should not terminate at the same time. Vacancies shall be filled by the legislative body for the unexpired terms and upon the expiration of such terms. Any member of the Development Review Board may be removed for cause by the Select Board upon written charges and after public hearing.

C. Appropriations

The Town may make such appropriations in its annual budget as are sufficient to afford the Development Review Board the technical and material assistance necessary to the fulfillment of its duties as outlined herein.

Section 1203: Officers of the Board

The Development Review Board shall annually elect its own officers [Chair, Vice Chair, Secretary and Assistant Secretary]. The officers of the Board may administer oaths and compel the attendance of witnesses and the production of material pertinent to any issue under appeal.

Section 1204: Meetings

Meetings of the Board shall be held at the call of the Chair and at such times as the Board may determine. All meetings of the board, except for deliberative and executive sessions, shall be open to the public.

Section 1205: Rules of Procedure

The Development Review Board shall adopt rules of procedure, subject to applicable state statutes, and shall adopt rules of ethics with respect to conflicts of interest.

The Board, in connection with any proceeding, may examine or cause to be examined any property, maps, books or records bearing upon the matters concerned in such proceeding. The Board may require the attendance of any person having knowledge in the premises, may take testimony and require proof material for its information. The Board may administer oaths or take acknowledgment in respect of such matters. Any of the preceding powers may be delegated by the Board to a specifically authorized agent or representative.

Section 1206: General Powers and Duties of the Board

A. General Powers.

The Development Review Board is a body with limited powers.

Except as specifically provided herein and in accordance with the provisions of 24 VSA, Chapter 117, the Development Review Board may not amend, alter, invalidate or affect any plan or bylaw of the Town or the implementation or enforcement thereof, or allow any use not permitted by the Zoning Regulations or any other bylaw.

B. General Duties.

The Development Review Board shall be charged with the proper interpretation of the Zoning Regulations and their consequent application within the town and with the administration of the procedures allocated to it by this Zoning Regulation including the following:

1. To hear and rule on appeals of any order, requirement, decision or determination made by the Administrative Officer in the

- administration and enforcement of the Zoning Regulations.
2. To hear and grant or deny a request for a variance in the application of provisions of the Zoning Regulations in accordance with Sections 1204, 1205 and 1206.
 3. To approve a request for a conditional use within any zoning district.
 4. To approve the repair, relocation, replacement, or enlargement of a nonconforming structure within the Flood Hazard District.
 5. To undertake the following review functions shall be performed by the Development Review Board:
 - a. planned unit developments
 - b. review of requests for waivers
 - c. site plan review
 - d. review of proposed subdivisions
 - e. wireless telecommunications facilities
 - f. Right-of-way or easement for land development without frontage
 6. To hear, review and decide, after due public notice and hearing, all matters referred to it or upon which it is required to pass according to this or any other regulation.

C. APPLICATIONS

Unless the matter is an appeal from the decision of the administrative officer, the matter shall come before the panel by referral from the administrative officer. Any such referral decision shall be appealable as a decision of the administrative officer.

D. COMBINED REVIEW

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

E. EXPENDITURES FOR SERVICE.

The Development Review Board may employ or contract for secretaries,

clerks, legal counsel, consultants, and other technical and clerical services. All members may be compensated for the performance of their duties and may be reimbursed by their municipality for necessary and reasonable expenses.

Section 1207: Specific Powers of the Board to Grant Variances

A. Requirements

On an appeal where a variance from the provisions of the Zoning Regulation constitutes the relief requested by the appellant, the Development Review Board may grant such variances, and render a decision in favor of the appellant, if all the following facts are established by the Board and are specified in its written decision:

1. That there are unique physical circumstances, 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 generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.
2. That as a result of such physical problems, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the 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 such variance if authorized represents the minimum that will afford relief, and provide the least modification possible of the Zoning Regulations and of the comprehensive plan.

B. In rendering a decision in favor of an appellant under this section, the

Development Review Board may attach such conditions to the variance as it considers necessary and appropriate under the circumstances to implement the various purposes of these Regulations and the town plan then in effect.

Section 1208: Variances - Flood Hazard District (also see Section 710)

The Development Review Board may approve the repair, relocation, replacement or enlargement of a nonconforming structure within a regulated flood hazard area, subject to compliance with applicable federal laws and regulations, and provided that *all* the following criteria are met:

- A. The Board finds that the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise.
- B. The Board finds that repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, or threaten the health, safety, and welfare of the public or other property owners.
- C. Permit so granted states that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner.

Section 1209: Variances - Renewable Energy Resource Structure

- A. On an appeal where a variance from the provisions of a zoning regulation is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variances, and render a decision in favor of the appellant if all of the following facts are found and the finding is specified in its decision.
 - 1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the regulations; and
 - 2. That the hardship was not created by the appellant; and
 - 3. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or

development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

B. In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions to the variance as it considers necessary and appropriate under the circumstances to implement the various purposes of these Regulations and the town plan then in effect.

Section 1210: Notifications - Flood Hazard District

A. For approved actions taken under Sections 1204 and 1205, the Secretary of the Development Review Board shall notify the applicant and include on the permit a notation that:

1. the structure is located below the base flood elevation will result in increased premium rates for flood insurance and increases the risk of life and property; and,
2. the structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner.

B. A copy of the permit shall be affixed to the copy of the deed of the concerned property on file in the municipal clerk's office.

Section 1211: Hearing and Notice Requirements; Development Review

A. Notice procedures

1. For conditional use review, variances, administrative officer appeals, and final plat review for subdivisions a public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by:
 - a. the publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected;
 - b. the posting of the same information in three or more public

places within the municipality in conformance with location requirements of 1 V.S.A. § 312(c)(2), which shall include posting within the public right-of-way most nearly adjacent to the property for which an application is made; and

- c. written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way.
2. For all other types of development review, including site plan review, public notice for hearings shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum:
 - a. the posting of the date, place, and purpose of the hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A. § 312(c)(2); and
3. The applicant may be required to bear the cost of the public warning and the cost and responsibility of notification of adjoining landowners.

B. Decisions

1. The development review panel shall render a decision on all development review applications not more than 45 days from the close of evidence at the public hearing, and failure to so act within this period shall be deemed approval. The board shall close the evidence promptly after the applicant and all interested persons have submitted information. Decisions shall be issued in writing and shall include a statement of the factual bases on which the development review panel has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.
2. In rendering a decision in favor of the applicant, the panel may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this chapter and the pertinent bylaws and the municipal plan then in effect. A bond, escrow account, or other surety in a form acceptable to the

legislative body of the municipality may be required to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project.

3. Any decision shall be sent by certified mail within the period set forth in subdivision (1) of this subsection to the applicant and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy of the decision shall be filed with the administrative officer and the clerk of the municipality as a part of the public records of the municipality.
4. Conditions may require that no zoning permit, except for any permits that may be required for infrastructure construction, may be issued for an approved development unless the streets and other required public improvements have been satisfactorily installed in accordance with the approval decision and pertinent bylaws. In lieu of the completion of the required public improvements, the development review panel may require from the owner for the benefit of the municipality a performance bond issued either by a bonding or surety company approved by the legislative body or by the owner with security acceptable to the legislative body, in an amount sufficient to cover the full cost of those new streets and required improvements on or in those streets or highways and their maintenance for a period of two years after completion as is estimated by the development review panel or such municipal departments or officials as the panel may designate. This bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required within the period fixed in the subdivision bylaws for that completion, and for the maintenance of those improvements for a period of two years after completion.
5. The performance bond required by this subsection shall run for a term to be fixed by the development review panel, but in no case for a longer term than three years. However, with the consent of the owner, the term of that bond may be extended for an additional period not to exceed three years. If any required improvements have not been installed or maintained as provided within the term of the performance bond, the bond shall be forfeited to the municipality and upon receipt of the proceeds

of the bond, the municipality shall install or maintain such improvements as are covered by the performance bond.

- C. Administrative review. In addition to the delegation of powers authorized under this chapter, any bylaws adopted under this chapter may establish procedures under which the administrative officer may review and approve new development and amendments to previously approved development that would otherwise require review by a development review panel. If administrative review is authorized, the bylaws shall clearly specify the thresholds and conditions under which the administrative officer classifies and application as eligible for administrative review. The threshold and conditions shall be structured such that no new development shall be approved that results in a substantial impact under any of the standards set forth in the bylaws. No amendment issued as an administrative review shall have the effect of substantively altering any of the findings of fact of the most recent approval.

Any decision by an administrative officer under this subsection may be appealed to the Development Review Board.

Section 1212: Minutes and Findings

The Board shall keep minutes of its proceedings, indicating 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 office of the clerk of the municipality as a public record.

All findings and actions of the Board shall be in writing and shall include the reasons for the action taken irrespective of its nature. Findings shall be detailed and in specific terms, discussing the reason for the decisions, beyond such generalities as "in the interest of public health, safety and general welfare." In every instance, a statement of the facts upon which such action is based shall appear in the decision.

Section 1213: Quorum and Votes

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 Board and any action thereof shall be taken by the concurrence of a majority of the members of the Board.

Section 1214: Appeals to the Board, Applications

The exclusive remedy of an interested person with respect to any decision or act taken, or any failure to act with respect to any one or more of the provisions of this regulation shall be the appeal to the Development Review Board.

A. Time for Filing

If the appeal is made with respect to any decision or action of the Administrative Officer, such notice of appeal must be filed within fifteen (15) days of the date of such decision or action and a copy of the notice of appeal shall be filed with such officer.

B. An appeal may be rejected by the Board without a hearing if the Board considers that the issues raised were decided in an earlier appeal or that the facts are the same or substantially the same facts.

A decision shall be made within ten (10) days of the filing of the notice and include findings of fact (see Section 1212). For the purposes of Section 1215, this decision shall constitute a decision of the Board.

C. Interested Persons

In any hearing, there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth in 24 VSA 4465 are met.

The Board shall keep a written record of the name, address, and participation of each of these persons.

For the purpose of these regulations, an interested person means any one of the following:

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
2. The Town of Castleton or any municipality which adjoins the Town.

3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under this chapter, who can demonstrate a direct physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.
4. Any ten persons owning real property or voters within the Town of Castleton, or a number of property owners equal to at least one percent of the registered voters of the municipality, whichever is greater, who, by signed petition to the development review panel of a municipality, the plan, or a bylaw of which is at issue in any appeal brought under this title, 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 plan or bylaw of that municipality. This petition to the development review panel must designate one person to serve as the principal contact regarding all matters related to the appeal.
5. Any department and administrative subdivision of this state owning property or any interest in property within the Town of Castleton, and the agency of commerce and community development of this state.

D. Notice of Appeal

Any notice of appeal shall be filed in writing with the Secretary of the Board on forms provided by her/him which shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is made, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant and the alleged grounds why such requested relief is believed appropriate under the circumstances.

F. Hearing on Appeals

The Development Review Board shall set a date and place for a public hearing of an appeal under these Regulations, which shall be within sixty (60) days of the filing of the notice of such appeal in accordance with Section 1214D.

The Board shall give public notice of the hearing, and shall mail to the

appellant a copy of such notice at least fifteen (15) days prior to the hearing date. Copies shall also be sent to adjoining property owners if known, although failure to comply with this provision shall not invalidate any action taken.

Any interested person as defined in 1214 C may appear and be heard in person or be represented by an agent or attorney at such hearing.

Any hearing held under this section may be adjourned by the Board from time to time, provided however, that the date and place of the adjourned hearing shall be announced at that time.

All hearings held under this section shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 VSA Section 10.

F. Decisions on Appeals.

The Development Review Board shall render its decisions on each appeal, which shall include written findings of fact, within forty-five (45) days after completing the final hearing and, within that period, send to the appellant, by certified mail, a copy of the decision.

Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy thereof shall be filed with the Administrative Officer and the clerk of the municipality as a part of the public records.

If the Board does not render its decision within this period, it shall be deemed to have rendered a decision in favor of the appellant and granted the relief requested on the 46th day.

Section 1215: Appeals from Decisions of the Board

An interested person may appeal a decision of the Development Review Board to the Environmental Court in accordance with 24 VSA 4471.

ARTICLE XIII: PLANNING COMMISSION

Section 1301: Continuation of the Planning Commission

There shall be a Planning Commission for the Town of Castleton.

Section 1302: General Review of the Zoning Regulation

The Planning Commission shall carry on a continuous review of the zoning regulation and initiate proposals for amendment as required.

As part of the accomplishment of its duties the Planning Commission shall maintain complete records of its proceedings, studies and recommendations, as well as keep the Select Board informed on the current status of the Zoning Regulations and their effectiveness within the Town.

Section 1303: Review of Zoning Amendments

The Planning Commission shall receive and evaluate proposals for amendment of the Zoning Regulations, hold public hearings on such amendments after due public notice as required in Section 1403, and make recommendations to the Select Board with respect to such amendments and required to do a report.

Section 1304: Advisory Counsel to Other Agencies

Upon request, the Planning Commission shall serve as guide and counsel to the Selectmen of the Town, the Administrative Officer, the Development Review Board, and other public offices in matters relative to the Zoning Regulations.

Section 1305: General Rules of Procedure

No meeting or hearing in any way affecting the zoning ordinance may be held by the Planning Commission without the attendance of a majority of the Commission members; neither may any official action be taken with respect to the Zoning Regulations without the concurrence of a majority of the Commission members.

ARTICLE XIV: OTHER PROVISIONS

Section 1401: Penalties for Violation

Any person who violates these Zoning Regulations shall be fined not more than one hundred dollars (\$100) per day for each offense after seven days warning notice by certified mail in accordance with the provisions of Section 4451 of the Act. In default of payment of the fine, such person shall pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense.

Section 1402: Interpretation of Regulation

The provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except as provided to the contrary in the Act or these regulations, it is not intended by these regulations to repeal, annul or in any way impair any regulations or permits previously adopted or issued, provided, however, that where these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these regulations shall control.

Section 1403: Notice of Hearing

Any public notice required for public hearing under this Zoning Regulation shall be given by the publication of the date, place and purpose of such hearing in a newspaper of general circulation in the town, and the posting of a notice containing the same information in one or more public places within the town not less than fifteen (15) days prior to the date of the public hearing.

Where such hearing is called in reference to any amendment of this Zoning Regulation or any other matter relating to written material, such public notice shall include either the full text or a brief summary describing the principal provisions and a reference to a place within the town where copies of the proposed material may be examined.

Section 1404: Fees

Fees may be established by the Select Board in amounts necessary to cover all costs of the Administrative Officer, the Development Review Board and the Planning Commission for such items as processing applications, including costs of material, administrative time, and reasonable overhead such as postage, telephone, etc.

The Development Review Board may require the applicant to pay for an outside expert opinion if necessary to adjudicate the applicant's case.

Section 1405: 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 Castleton or any local official or employee thereof for any flood damages that result from reliance on this Regulation or any administrative decisions lawfully made there under.

Section 1406: Severability

If any provision of this regulation is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application.

Section 1407: Effective Date

This Regulation shall take effect upon approval in accordance with the voting and other procedures contained in Section 4404 of 24 VSA 117.

Section 1408: Precedence of Regulation

The provisions of this regulation shall take precedence over any conflicting and less restrictive local laws.

The revision of these bylaws was supported in part by a grant from the Vermont Department of Housing and Community Affairs.

Adopted by the Planning Commission on **January 22, 2007**

Adopted by the Select Board on **June 4, 2007**

Effective: **June 26, 2007**

Amended by the Planning Commission on **December 21, 2007** for submission to the Select Board.

*Amended by the Select Board on **January 14, 2008**

*Effective: **February 4, 2008**