

ARTICLE I. AUTHORITY AND PURPOSE

Section 1.1 Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act [24 V.S.A., Chapter 117], hereinafter referred to as “the Act”, there is hereby established a Zoning Bylaw for the Town of Elmore as set forth in the text and maps contained herein. This bylaw shall be known as the “**Elmore Zoning Bylaw.**”

Section 1.2 Purpose

It is the purpose of this zoning bylaw to promote the health, safety and general welfare of the residents and natural resources of the Town of Elmore, to provide for and promote the orderly development of the Town, to further the goals and purposes of the Act [§4302], and to implement the Elmore Town Plan as most recently adopted.

Section 1.3 Application and Interpretation of this Bylaw

(A) The application of this bylaw is subject to the provisions of all subchapters of the Act as most recently amended. In accordance with the Act [§4446], no land development as defined herein shall commence within the jurisdiction of the Town of Elmore except in compliance with the provisions of this bylaw. Land development shall not include customary maintenance activities. Any land development not specifically authorized under this bylaw, unless otherwise exempted under the Act, or Section 6.5, is prohibited.

(B) This bylaw is intended to repeal the previous bylaw, but it is not intended to annul or in any way impair other regulations or permits previously adopted or issued. If any development subject to regulations under this bylaw is also subject to other Town or State regulations, the most stringent or restrictive regulations shall apply.

Land Development: the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, or of any mining, excavation, or landfill, any change in use of any building or other structure, or land or extension of use of lands. [24 V.S.A., §4303(10)].

Section 1.4 Adoption and Amendment; Effective Date

This bylaw shall be adopted, and may be amended, in accordance with the requirements and procedures outlined in the Act [§§4441, 4442]. The provisions of this bylaw shall become effective immediately upon adoption by the voters of the Town at a duly warned Town Meeting or, in the event an amendment is adopted by a majority of the Elmore Selectboard it shall take effect twenty-one (21) days from the date of adoption.

Section 1.5 Severability

The provisions of this bylaw are severable. The invalidity of any provision or application of this bylaw shall not invalidate any other part thereof.

ARTICLE II. ZONING DISTRICTS & DISTRICT STANDARDS

Section 2.1 Establishment of Zoning Districts & Map

(A) For the purposes of this Bylaw, the Town of Elmore is divided into the following zoning districts: Village (VLG), Rural-East (R-E), Rural West (R-W), Forest Reserve (FR) and Shoreland (SHR). In addition, a Flood Hazard Overlay (FHO) District is established to protect public health and safety.

(B) The location and boundaries of zoning districts are established as shown on the official "Town of Elmore Zoning Map", and the associated overlay, which is made part of this Bylaw. The official zoning map and overlay shall be located in the Town Clerk's office and shall be the final authority as to the current zoning status of land and waters in the town.

(C) The official zoning map and overlays shall be identified by the signatures of the Select Board, as attested to by the Town Clerk. No changes of any nature shall be made on the official map or overlays except in conformance with zoning amendment procedures and requirements set forth in the Act [§§4441, 4442].

Section 2.2 Zoning District Descriptions

(A) **Village District (VLG).** The Village District shall include all lands within and adjacent to the historic Elmore Village depicted as "Village District" on the official zoning map.

(B) **Rural East District (RE).** The Rural District shall include all lands outside of the Village and Forest Reserve Districts lying to the east of the height of land of the Worcester Mountain Range, as depicted on the official zoning map.

(C) **Rural West District (RW).** The Rural District shall include all lands outside of the Village and Forest Reserve Districts lying to the west of the height of land of the Worcester Mountain Range, as depicted on the official zoning map.

(D) **Forest Reserve District (FR).** The Forest Reserve District shall include all lands at and above an elevation of 1,300 feet mean sea level (msl) in the Worcester Mountain Range, as depicted on the official zoning map.

(E) **Shoreland District (SHR).** The Shoreland District shall include all lands which are located within 500 feet of the shorelines of Lake Elmore, Little Elmore Pond and Hardwood Pond, as measured perpendicularly inland from the mean lake level elevation and depicted on the official zoning map.

(F) **Flood Hazard Area Overlay (FLD).** The Flood Hazard Area Overlay shall include all 100- year Flood Hazard Areas identified on the Federal Insurance Administration's most current set of Flood Insurance Rate Maps (FIRMs) for the Town of Elmore which are adopted by reference and declared to be part of this Bylaw. Note: This designation does not imply that lands outside of depicted Flood Hazard Areas or land uses permitted in such areas will be free from flooding or flood damages.

Section 2.3 Interpretation of District Boundaries

Where uncertainty exists as to the location of district boundaries shown on the official zoning map and overlay, the following rules shall apply:

- (A) Boundaries indicated as approximately following the center lines of streams, roads, transportation and utility rights-of-way shall be construed to follow such center lines.
- (B) Boundaries indicated as approximately following property boundaries or platted lot lines shall be construed to follow such lot lines.
- (C) Boundaries indicated as following shorelines shall be construed as being parallel the normal mean lake level. In the event of change in the shoreline the boundary shall be construed as moving with the shoreline.
- (D) Boundaries indicated as following elevation contours shall be construed to follow such contours.
- (E) Boundaries indicated as parallel to or extensions of features under the subsections (A)-(C) shall be so construed. Boundaries indicated as lines perpendicular to lines or features described in subsections (A)-(C) 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.
- (F) 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 this Bylaw, shall not affect the location of such boundary line, except as otherwise noted under Subsection (C).
- (G) When the Administrative Officer cannot definitely determine the location of a district boundary by the scale or dimensions given on the official zoning map and associated overlays or by the above rules, the Planning Commission and/or the appropriate state official shall be consulted prior to making the final determination. A determination by the Administrative Officer regarding the location of a district boundary may be appealed to the Development Review Board under Section 6.3.
- (H) Where a district boundary line divides a lot in single ownership on or after the effective date of this Bylaw or of amendments thereto, the Development Review Board may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- (I) When a lot line is situated partly in the Town of Elmore and partly in a neighboring town, the standards of this Bylaw shall be applied to that portion of the lot that lies in the Town of Elmore in the same manner as if the entire lot were situated therein.

Section 2.4 Application of District Standards

- (A) The standards for each district shall apply uniformly to each class of use and/or structure, unless otherwise specified in this Bylaw. All uses and structures must comply with all prescribed standards for the district in which they are located as set forth in Tables 2.1 - 2.6, and as defined in Article VII, unless otherwise permitted under Planned Residential Development (PRD) pursuant to Section 5.4. Non-conforming uses and non-complying structures shall be regulated in accordance with Section 3.8.
- (B) Overlay district standards shall be applied concurrently with the standards for underlying districts. Where overlay districts impose more restrictive standards on the use of a structure or land, the standards of the overlay district shall apply.

(C) Prescribed uses for each district are classified as “permitted,” to be reviewed in accordance with Section 6.1, or “conditional” to be reviewed in accordance with Section 5.3.

(D) Any use not permitted by these regulations, unless specifically exempted under Section 6.5 shall be deemed to be prohibited.

Section 2.5 District Objectives, Uses and Standards

The following tables set forth the stated purpose, allowable uses and specific standards for each zoning district.

Table 2.1
VILLAGE DISTRICT (VLG)

(A) **Purpose:** The purpose of the Village District is to allow for a concentrated mix of residential, cultural and limited commercial uses within and immediately adjacent to the town's historic community center in a manner that respects the historic settlement pattern of compact village surrounded by rural countryside. Generally, development shall be designed to be compatible with existing development with regard to building styles, materials, scale and orientation.

(B) **Permitted Uses:** *(Reviewed in accordance with Section 6.1)*

Accessory Dwelling (see Section 4.1 & subsection (E))
 Accessory Structure
 Accessory Use
 Agriculture (see Section 6.5)
 Cemetery
 Group Home (8 or fewer residents)
 Home Child Care (see Section 4.3)
 Home Occupation (see Section 4.5)
 Place of Worship
 Playground
 Single Family Dwelling
 Travel Information Kiosk

(C) **Conditional Uses:** *(Reviewed in accordance with Section 5.3)*

Bed & Breakfast
 Boat Launch/Ramp (within shoreland buffer)
 Community Care Facility (retirement/nursing)
 Community Facility
 Community Services
 Cottage Industry (see Section 4.5)
 Community Service Facility
 Day Care Facility
 Decks, Permanent Docks, and Stairs greater than 4 ft. in width (within shoreland buffer)
 Educational Facility
 Health Clinic
 Mixed Use (provided uses are a combination of permitted or conditional uses otherwise allowed in the district)
 Multi-Family Dwelling
 Office Building (less than 2,500 sf floor area)
 Post Office
 Public Beach/Park
 Public Campground
 Recreation/Indoor
 Recreation/Outdoor
 Restaurant (excluding drive-through windows)
 Retaining Wall (along shoreline)
 Retail Commercial (less than 2,500 sf floor area)
 Service Commercial (less than 2,500 sf floor area)

(D) **Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size 30,000 sf. principal use
 Minimum Lot Frontage: 75 ft.
 Minimum Front Yard Setback: 15 ft.
 Minimum Side Yard Setback: 15 ft.
 Minimum Rear Yard Setback: 25 ft.
 Accessory Structure setback: 10 ft.

Maximum Building Height: 35 ft.
 Maximum Lot Coverage: 60%
 Maximum Density for Multi-family Dwellings: 1 unit per 10,000 ft.² of lot area

Table 2.1 (continued)
VILLAGE DISTRICT (VLG)

(E) Supplemental Development Standards:

- (1) All development in the Village District shall be subject to the buffer and dredging requirements relative to the Shoreland District set forth in Table 2.5 (E) (1), (2) and (3).
- (2) With the exception of the replacement of existing non-residential aboveground and underground fuel storage facilities, fuel storage within 500' of Lake Elmore shall be limited to normal residential use.
- (3) Conditional use review standards under Section 5.3 must be followed for conditional uses, or as otherwise specified under Article III and/or Article IV.
- (4) Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height or floor area of the principal single family dwelling, may only be allowed by the Development Review Board as a conditional use under Section 5.3.

Table 2.2
RURAL-EAST DISTRICT (R-E)

(A) **Purpose:** The purpose of the Rural-East District is to preserve the Town's rural, agricultural and scenic character by allowing for compatible, low density forms of development typically found in the Town's rural areas east of Elmore Mountain which have been determined to have minimal environmental or aesthetic impact.

(B) **Permitted Uses:** *(Reviewed in accordance with Section 6.1)*

Accessory Dwelling (see Section 4.1 & subsection (E))
 Accessory Farm Dwelling (see section 4.1)
 Accessory Structure
 Accessory Use
 Agriculture (see Section 6.5)
 Cemetery
 Forestry (see Section 6.5)
 Group Home (8 or fewer residents)
 Home Child Care (see Section 4.3)
 Home Occupation (see Section 4.5)
 Single Family Dwelling

(C) **Conditional Uses:** *(Reviewed in accordance with Section 5.3)*

Bed & Breakfast
 Cottage Industry (see Section 4.5)
 Community Services
 Extraction/Quarrying (see Section 4.6)
 Garden Center
 Boarding Kennel
 Mobile Home Park (see Section 4.7)
 Multi-Family Dwelling
 Public Campground
 Recreation/Outdoor
 Retreat
 Rural Industry (see Section 4.9)
 Salvage/Junk Yard (see Section 4.10)
 Storage Facility (in Historic Barn only)
 Telecommunications Facility (see Section 4.12)
 Veterinary Clinic

(D) **Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size: 2 acre per principal use
 for lots created after January 1, 2000 (see Section 3.5).
 Minimum Lot Size: 1 acre per principal use
 for lots created prior to January 1, 2000 (see Section 3.5).
 Minimum Lot Frontage: 200 ft.

Minimum Front Yard Setback: 25 ft.
 Minimum Side Yard Setback: 25 ft.
 Minimum Rear Yard Setback: 25 ft.
 Maximum Height: 35 ft.
 Maximum Lot Coverage: 15%
 Maximum Density for Multi-family Dwellings: 1 unit per minimum lot size for district

(E) **Supplemental Development Standards:**

- (1) Conditional use review standards under Section 5.3 must be followed for conditional uses, or as otherwise specified under Article III and/or Article IV.
- (2) Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height or floor area of the principal single family dwelling, may only be allowed by the Development Review Board as a conditional use under Section 5.3.

Table 2.3
RURAL-WEST DISTRICT (R-W)

(A) **Purpose:** The purpose of the Rural-West District is to preserve the Town's rural, agricultural and scenic character in accordance with the Town Plan, by allowing for compatible forms of development typically found in the Town's rural areas west of Elmore Mountain which have been determined to have minimal environmental or aesthetic impact, and to limit overall density in those areas of Town far from community services and facilities.

(B) **Permitted Uses:** *(Reviewed in accordance with Section 6.1)*

Accessory Dwelling (see Section 4.1 & subsection (E))
 Accessory Farm Dwelling (see section 4.1)
 Accessory Structure
 Accessory Use
 Agriculture (see Section 6.5)
 Forestry (see Section 6.5)
 Group Home (8 or fewer residents)
 Home Child Care (see Section 4.3)
 Home Occupation (see Section 4.5)
 Single Family Dwelling

(C) **Conditional Uses:** *(Reviewed in accordance with Section 5.3)*

Bed & Breakfast
 Cemetery
 Community Services
 Cottage Industry (see Section 4.5)
 Extraction/Quarrying (see Section 4.6)
 Garden Center
 Boarding Kennel
 Mobile Home Park (see Section 4.7)
 Multi-Family Dwelling
 Recreation/Outdoor
 Rural Industry (see Section 4.9)
 Salvage/Junk Yard (see Section 4.10)
 Storage Facility (in Historic Barn only)
 Telecommunications Facility (see Section 4.12)
 Veterinary Clinic

(D) **Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size: 7 acre per principal use for lots created after January 1, 2000 (see Section 3.5).	Minimum Front Yard Setback: 25 ft.
Minimum Lot Size: 1.5 acre per principal use for lots created prior to January 1, 2000 (see Section 3.5).	Minimum Side Yard Setback: 25 ft.
Minimum Lot Frontage 250 ft.	Minimum Rear Yard Setback: 25 ft.
	Maximum Height: 35 ft.
	Maximum Lot Coverage: 15%
	Maximum Density for Multi-family Dwellings: 1 unit per minimum lot size for district

(E) **Supplemental Development Standards:**

- (1) Conditional use review standards under Section 5.3 must be followed for conditional uses, or as otherwise specified under Article III and/or Article IV.
- (2) Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height or floor area of the principal single family dwelling, may only be allowed by the Development Review Board as a conditional use under Section 5.3.

Table 2.4
FOREST DISTRICT (FR)

(A) **Purpose:** The purposes of the Forest Reserve District are: (1) to maintain existing land uses in the Worcester Mountain Range in a manner that preserves fragile features associated with high elevations, including steep slopes, soils unsuitable for on-site septic disposal, large areas of intact wildlife habitat, headwater streams and associated water supplies and scenic resources; (2) to prevent undue financial burden on town services including emergency services, utilities and road maintenance, by discouraging scattered development in areas with poor or limited access; (3) to protect the health, welfare and safety of Town residents by limiting development in areas characterized by poor site conditions and the lack of public access or services; and (4) to encourage traditional land uses to continue in the district without while limiting incompatible uses.

(B) **Permitted Uses:** *(Reviewed in accordance with Section 6.1)*

Agriculture (see Section 6.5)
Forestry (see Section 6.5)
Recreation/Outdoor (undeveloped)

(C) **Conditional Uses:** *(Reviewed in accordance with Section 5.3)*

Accessory Structure (below 1,500' msl only)
Accessory Use
Accessory Dwelling (below elevation of 1,500' msl only – see Section 4.1)
Home Child Care (see Section 4.3)
Home Occupation (see Section 4.5)
Single Family Dwelling (below elevation of 1,500' msl only)
Telecommunications Facility (see Section 4.12)

(D) **Dimensional Standards (unless otherwise specified by use type):**

Minimum Lot Size: (residential): 7acre per
principal use for lots created after January 1,
2000 (see Section 3.5).
Minimum Lot Size (residential): 1.5 acre per
principal use for lots created prior to January 1,
2000 (see Section 3.5).

Minimum Lot Size (non-residential): 25 acres
Minimum Lot Frontage: 250 ft.
Minimum Setbacks: [see below]
Maximum Height: 35 ft.
Maximum Lot Coverage: 2%

(1) Minimum Setback. To allow flexibility in house site location and address development standards related to natural and scenic resource protection, minimum setbacks for all structures shall be determined by the Development Review Board pursuant to conditional use review (see Section 5.3) In no instance will a structure be permitted within twenty-five (25) feet of neighboring property boundaries.

(E) **Supplemental Development Standards:**

In addition to the standards set forth in Section 5.3, when reviewing applications for conditional uses within the Forest Reserve District the Development Review Board shall consider the following:

(1) **Residential Uses.** To maintain traditional land uses in the Forest Reserve District, single family dwellings and accessory structures to single family dwellings are only permitted below an elevation of 1,500 feet mean sea level. The Development Review Board may allow the placement of a single family dwelling and/or accessory structures above 1,500' mean sea level, providing the following:

Table 2.4
FOREST DISTRICT (FR)
(continued)

- a. the dwelling is located on a lot created prior to January 1, 2000;
- b. site development, excluding forest management activities, associated with the placement of a house-site (e.g. driveway construction, site-grading) has occurred prior to January 1, 2000;
- c. proposed development, including the house-site location, does not exceed an elevation of 1,600'; and,
- d. all proposed development and site improvements comply with all other standards of this section.

- (2) **Placement of Structures.** Careful consideration shall be given to the location of proposed structures relative to site conditions, existing vegetation, and the location of fragile features (including but not limited to steep slopes, streams and identified habitat and natural areas). The Board may limit or restrict the location of structures to ensure that development:

- a. is minimally visible from public roads and properties, and does not stand in contrast to surrounding landscape patterns and features or serve as a visual focal point;
- b. is designed so that the height of any structures does not visually exceed the height of the adjacent tree canopy serving as the visual backdrop to the structure;
- c. is located down-grade of ridgelines and prominent knolls and is designed so that the height of proposed structures will not exceed the elevation of any adjacent ridgeline;
- d. will not adversely affect natural and scenic resources and fragile areas identified in the Elmore Town Plan, including wetlands, streams, critical habitat , steep slopes, areas of unstable soils and/or soil types that are generally unsuitable for development and on-site septic disposal; and,
- e. does not involve the placement of any structure, including telecommunications facilities, within the Mount Elmore Telecommunications Exclusion Area depicted on the official zoning map.

- (3) **Clearing and Landscaping.** On wooded sites, existing forest cover shall be maintained adjacent to proposed structures to interrupt the facade of buildings, provide a forested backdrop to structures, and/or soften the visual impact of new development as viewed from public roads and properties. The Development Review Board shall consider the location of proposed structures relative to existing vegetation, and may require additional tree planting and/or limit the amount of clearing adjacent to proposed development to provide screening and maintain a forested backdrop. A plan for the maintenance of remaining and proposed trees may be required. Such a plan shall address specific measures to be taken to ensure the survival and, if necessary, replacement of designated trees during or after site development and the installation of all site improvements.

- (4) **Building Design.** The Development Review Board shall consider the overall design of new structures (including the proposed scale, location and materials), and may impose conditions related to the overall design to minimize visual impacts, such as glare, contrasting colors and building materials, as viewed from public roads and properties.

- (5) **Erosion Control.** Development shall minimize the removal of native vegetation and grading, and shall comply with the erosion control standards set forth in Section 3.4. Clearing may be limited to one or more portions of the property to prevent erosion and sedimentation of streams; buffer areas may be required to protect streams, wetlands and other fragile features.

Table 2.4
FOREST DISTRICT (FR)
(continued)

- (6) **Forest Management.** Forest management activities shall comply with all applicable state regulations and shall, as a minimum standard, comply with Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as revised, published by the Vermont Department of Forests, Parks & Recreation.
- (7) **Site Restoration.** Forest management activities designed as pre-development site preparation, including road and driveway construction, clearing and/or grading for house-sites and septic systems or related work, shall be reviewed by the Board under this bylaw. Where a landowner fails to submit pre-development plans for review, the Board may limit development to the non-impacted portion of the property and/or require the site to be restored or revegetated prior to development.

Table 2.5
SHORELAND DISTRICT (SHR)

(A) **Purpose:** The purpose of the Shoreland District is to allow for compatible forms of development within the shoreland areas of Lake Elmore, Elmore Pond and Hardwood Pond, which will protect water quality and shoreland vegetation, minimize adverse impacts to the lakeshore environment, limit encroachments into public waters, and preserve both visual and physical access to and from the Lake.

(B) **Permitted Uses** *(Reviewed in accordance with Section 6.1)*

Accessory Dwelling (see Section 4.1 & subsection (E))
 Accessory Structures (to include permanent stairs and landings 4 ft. or less in width, and temporary docks, within shoreland buffer)
 Accessory Use
 Agriculture (see Section 6.5)
 Group Home (8 or fewer residents)
 Home Child Care
 Home Occupation (see Section 4.5)
 Single Family Dwelling

(C) **Conditional Uses** *(Reviewed in accordance with Section 5.3)*

Boat Launch/Ramp (within shoreland buffer)
 Lake Access, including permanent docks, stairs and handicap ramps greater than 4 ft. in width (within shoreland buffer)
 Public Beach/Park
 Public Campground
 Recreation/Outdoor
 Retaining Wall (along shoreline)

(D) **Dimensional Standards (unless otherwise specified by use type):**

Min. Lot Size (on Lake Elmore): 1 acre per principal use
 Min. Lot Size (on Elmore & Hardwood Ponds): 5 acres per principal use
 Minimum Lot Frontage: 150 ft. for 1 acre lots; 250 ft. for 5 acre lots Hardwood Ponds
 Minimum Lot Depth: 150 ft.
 Minimum Front Yard Setback: 20 ft.

Minimum Side Yard Setback: 10 ft.
 Maximum Building Height: 35 ft.
 Maximum Lot Coverage: 10%
 Minimum Lake Frontage: 125 ft. on Lake Elmore 400 ft. on Elmore & Hardwood Ponds
 Minimum Lake Setback: 40 ft. from Lake Elmore; 100 ft. from Elmore & Hardwood Ponds

(E) **Supplemental District Standards:**

- (1) Structures permitted within the shoreline setback and access areas include stairways or handicap ramps not exceeding 4 feet in width, temporary docks; and, subject to conditional use review under Section 5.3, stairways or handicap ramps, landings and/or decks more than 4 feet in width, permanent docks, and retaining walls only if it is found that such structures will not adversely impact water quality, significant natural or scenic features, or neighboring properties.
- (2) A vegetated buffer 40 feet in width shall be maintained along the length of the shoreline of Lake Elmore, and 100 feet in width along the shoreline of Elmore and Hardwood Ponds, to prevent soil erosion and protect water quality. With the exception of the minimum amount of clearing necessary to accommodate permitted accessory structures (see subsection (1)), the removal of existing vegetation shall only be permitted with approval from the Development Review Board. Clearing to create or enhance views, or improve lake or pond access, may be permitted in accordance with a

Table 2.5
SHORELAND DISTRICT (SHR)
(continued)

landscaping plan approved by the Board. Such plan shall be designed to maintain water quality, prevent erosion and enhance the visual character of the shoreline as viewed from the lake or pond. The development and maintenance of public beaches and public lake accesses are specifically exempted from this standard.

- (3) Notwithstanding subsection (2), above, the Development Review Board may allow encroachment into the 40 feet buffer area as a conditional use under Section 5.3 where encroachment is required to modify or replace a septic disposal system located on the parcel. In allowing such encroachments, the Board shall ensure that:
 - a. no other options are available on the parcel to accommodate the new or modified septic system;
 - b. that the existing system poses a threat to public health and water quality unless the system is modified or replaced;
 - c. the total area of encroachment is the minimum necessary to accommodate the modification or replacement; and
 - d. the modification and/or replacement of the septic system is necessary to correct a system that has failed or is otherwise inadequate to serve the current use of the property, and is not designed to accommodate the expansion or enlargement of the existing use.
- (4) Draining or filling of land along the shoreline, including associated wetlands, shall be allowed only in accordance with applicable state and federal regulations. The dredging of land adjacent to the shoreline is prohibited.
- (5) Fuel storage is allowed in the Shoreland District only for normal residential use.
- (7) Conditional use review standards under Section 5.3 must be followed for conditional uses, or as otherwise specified under Article III and/or Article IV.
- (7) Notwithstanding subsection (B), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height or floor area of the principal single family dwelling, may only be allowed by the Development Review Board as a conditional use under Section 5.3.

Table 2.6
FLOOD HAZARD AREA OVERLAY DISTRICT (FLD)

(A) **Purpose:** The purpose of the Flood Hazard Area Overlay District is to promote public health, safety and welfare by preventing or minimizing hazards to life or property due to flooding. It is also the intent to the Town of Elmore to regulate development within identified flood hazard areas in accordance with state and federal law in order to ensure that private property owners are eligible for flood insurance through the National Flood Insurance Program (NFIP) (see also Article V).

(B) **Permitted Uses** *(Reviewed in accordance with Section 6.1)*

Agriculture (see Section 6.5)
Forestry (see Section 6.5)
Recreation/Outdoor (no structures)

(C) **Conditional Uses** *(Reviewed in accordance with Section 5.3)*

All other permitted or conditional uses listed for the underlying district, unless otherwise specifically excluded under Section 6.5

(D) **Dimensional Standards:**

Standards as set forth for the underlying district unless otherwise specified under Article V.

(E) **District Standards:**

- (1) Mandatory state [§4412] and federal [44 CFR 60.3 and 60.6] requirements for continued eligibility in the National Flood Insurance Program – including but not limited to associated structural standards, definitions, administrative and variance requirements – are hereby adopted by reference and shall be applied to all development in this district. Accordingly:
 - a. Applications for development within the Flood Hazard Area Overlay District shall be submitted in accordance with the provisions of Sections 5.2 and 6.3, and are subject to state and federal agency referral requirements in accordance with Section 6.1 (as specified under Table 6.1).
 - b. Development in the Flood Hazard Area Overlay District shall be subject to conditional use review under Section 5.3, including criteria under Section 5.3 (D) specific to development within designated flood hazard areas, as well as applicable requirements of the underlying zoning district. Where this overlay imposes more restrictive standards on the construction and use of structures or land, the most restrictive standards shall apply.
 - c. Requests for variances for development within the Flood Hazard Area Overlay District shall be subject to review under Section 6.4, including but not limited to variance criteria under Section 6.4 (C) specific to variances with designated flood hazard areas.
 - d. Permits, certifications and variance actions for development within the Flood Hazard Area Overlay District shall be recorded by the Administrative Officer in accordance with the provisions of Section 6.7(D)(2).

ARTICLE III. GENERAL PROVISIONS

Section 3.0 Applicability

The following general standards, including provisions required under the Act [§§4412, 4413], apply to all uses and structures as specified within the Town of Elmore.

Section 3.1 Access and Frontage Requirements

(A) In accordance with the Act [§4412(3)], no land development may be permitted on lots in existence prior to the effective date of this bylaw which do not have either frontage on a maintained public road [Class I, II, III, state] or public waters, or, with the approval of the Development Review Board under the procedures set forth in Section 5.3, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. In granting or denying approval, the Board shall consider intended use, safety, traffic, lot configuration and road and site conditions.

(B) No lot shall be served by more than one (1) access road or driveway unless otherwise permitted under conditional use review (Section 5.3) or the Elmore Subdivision Regulations. Accesses (curb cuts) are to be installed in accordance with municipal and/or state regulations, and shall not be permitted to extend along the length of road frontage. For parcels having direct access to more than one public road, access to the property may be limited to a side street or secondary road as a condition of approval under Section 5.3.

(C) In appropriate instances, including the presence of compatible adjacent uses and/or areas characterized by congestion and unsafe turning movements, provision for shared access between adjoining properties may be required as a condition of subdivision review and/or conditional use review under Section 5.3. Requirements for shared access shall be made either at the time of conditional use or subdivision approval if similar provision has been made on contiguous parcels, or may be contingent upon future development of neighboring properties.

(D) Driveways are to be located at least one hundred (100) feet from a street or highway right-of-way intersection for all uses, except one-and two-family residential uses, which shall be at least fifty (50) feet from the same. The maximum gradient shall not exceed 10%, or 3% within twenty (20) feet of a public road, unless otherwise approved by the Development Review Board (also see Section 3.4).

Section 3.2 Conversions and Changes of Use

Changes or conversions in the use of land and/or an existing structure are subject to the provisions of this bylaw as follows:

(A) The proposed use shall be subject to all the requirements of this bylaw pertaining to such use, including but not limited to any district, specific use or general standards, as well as other applicable municipal, state and federal regulations.

(B) An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure conforms to the lot size, setbacks, parking and other requirements applicable to the proposed use.

(C) A conversion or change of use from one permitted to another permitted use which involves the creation of new floor space or changes in minimum lot size and/or dimensional requirements will require a zoning permit to be issued by the Administrative Officer under Section 6.1.

(D) A conversion or change of use from a permitted to a conditional use, or a conditional use to a different conditional use, may be approved by the Development Review Board subject to conditional use review under Section 5.3. Changes or conversions involving non-conforming uses and/or non-complying structures also are subject to and will be reviewed under Section 3.8.

Section 3.3 Equal Treatment of Housing

In accordance with the Act [§4412(1)]:

(A) A mobile home shall be considered a single family dwelling, and shall meet the same zoning requirements applicable to single family dwellings, except when allowed as a temporary structure under Section 3.14 of this bylaw. No provision of this bylaw 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.

(B) Provisions for mobile home parks are established in Section 4.7 of this bylaw; provisions for accessory dwellings are established in Section 4.1 of this bylaw; provisions for multi-family dwellings are established in Article II of this bylaw.

Section 3.4 Erosion Control & Development on Steep Slopes

(A) All development involving the mechanical excavation, filling and/or regrading (e.g. using bulldozer, backhoe, grader or similar heavy equipment) of land characterized by a slope gradient in excess of 15% on any parcel shall be subject to review and approval by the Development Review Board under conditional use review (Section 5.3). Development Review Board approval shall be contingent upon the submittal of an adequate erosion and sedimentation control plan. Such plan shall be prepared by a professional engineer licensed by the State of Vermont, and shall provide detailed information regarding proposed erosion and sedimentation control measures to be employed during all stages of the development (including site preparation, construction and post-construction).

(B) In addition to the requirements of subsection (A), all driveways with a gradient of 10% or greater shall be designed to meet all local access standards and the Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways, as revised. If the local standards and B-71 standards are in conflict, the stricter shall apply.

(C) Development generally shall not take place on slope gradients in excess of 25%. Limited site improvements necessary to facilitate development on contiguous land less than 25% gradient may be permitted, subject to the requirements of subsection (A) and (B).

Section 3.5 Existing Small Lots

(A) In accordance with the Act [§4412(2)(7)], any lot in individual and non-affiliated ownership from surrounding properties in existence on the effective date of this bylaw may be developed for the purposes permitted in the district in which it is located and in accordance with all applicable requirements of this bylaw, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth ($\frac{1}{8}$) of an acre in area with a minimum width or depth of forty (40) feet.

(B) Pre-existing, undeveloped small lots in affiliated or common ownership or such lots which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of this bylaw, However, such lots shall not be deemed merged, and may be separately conveyed, if:

- (1) the lots are conveyed in their pre-existing, nonconforming configuration; and
- (2) on the effective date of this bylaw, each lot had been developed with a water supply and wastewater disposal system; and
- (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
- (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 VSA Chapter 64.

(C) Pursuant to Article 2, the minimum lot size requirement for a lot of record created prior to January 1, 2000 may vary from the minimum lot size requirement for a lot of record created after January 1, 2000. The merger requirement for existing small lots set forth in subsection (B) shall not require the merger of a lot of record meeting the minimum lot size for the date on which the lot was created, as set forth in Article 2, providing:

- (1) a subdivision plat or deed documenting the creation of said lot was duly recorded in the Elmore Land Records; and,
- (2) the lot must have been created in compliance with all applicable local and state regulations in effect at the time the plat and/or deed was recorded.

Section 3.6 Height Requirements

(A) The maximum height of structures in all districts shall be three (3) stories or thirty-five (35) feet, whichever is less, as measured from the lowest natural grade at ground level, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements of this bylaw:

- (1) agricultural structures in accordance with the Act [§4413(d)];
- (2) church steeples, spires and belfries;
- (3) accessory structures associated with residential use which is less than 50 feet in height above the lowest grade at ground level, including antennas, flag poles, chimneys, wind generators with blades less than 20 feet in diameter, and rooftop solar collectors.

(B) The Development Review Board may permit structures in excess of 35 feet subject to conditional use review under Section 5.3, provided that:

- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) the portion of the structure above 35 feet shall remain unoccupied except for normal maintenance;
- (3) the structure is not to be used for advertising purposes;
- (4) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation; and,
- (5) the proposed building height and scale is consistent with the character of the immediate surroundings.

Section 3.7 Lot and Yard Requirements

(A) There shall be only one principal structure or one principal use and its associated structures per lot, unless otherwise specifically approved as a mixed use, or for agriculture or forestry. Provision is made for accessory uses and structures, home occupations, and other home-based industries or uses that are accessory to the principal use.

(B) For lot areas, lot frontage, lot depth and all yard setbacks, the requirement specified is the minimum standard to be met. For coverage, the requirement specified is the maximum permitted.

(C) No lot shall be so reduced in size that the area, setback, or other dimensions are smaller than those prescribed in this bylaw, except as permitted for PRDs pursuant to Section 5.4.

(D) In calculating the required area, width or depth of a lot, existing and proposed rights-of-way shall be excluded.

(E) For lots in all districts, there shall be no hazard to vision within twenty-five feet of a street intersection or highway entrance between the height of three (3) feet and ten (10) feet above the average grade of each street.

(F) The lot frontage requirement for the District shall serve as the lot width requirement for non-frontage lots. Any interior lot which does not have frontage on a public or private road shall meet minimum yard requirements for all yards equal to the side yard setback distance for lots in that district.

(G) Setbacks are to be measured from the property line back to the closest point of the structure or object. On streets with less than a fifty (50) foot right-of-way or where the width of the street right-of-way is not established, the front-yard requirement shall be measured from the centerline of the existing roadway and twenty-five (25) feet shall be added to the front yard requirement.

(H) All yards adjoining a street shall be considered a front yard for the purpose of these regulations.

Section 3.8 Nonconforming Uses and Nonconforming Structures

(A) In accordance with the Act [§4412(7)], these regulations address three categories of nonconformity:

- (1) Nonconforming structures (see subsection (B));
- (2) Nonconforming uses (see Subsection (C)); and
- (3) Existing small lots (see Section 3.5).

(B) **Nonconforming Structures.** Any pre-existing structure or part thereof which is not in compliance with the provisions of these regulations concerning density, setbacks, height, lot size or other dimensional standard, or which does not meet other applicable requirements of these regulations, shall be deemed a nonconforming structure. Nonconforming structures legally in existence on the effective date of these regulations may be allowed to continue indefinitely, but shall be subject to the following provisions. A nonconforming structure:

- (1) may undergo normal repair and maintenance provided that such action does not increase the degree of noncompliance (see definition of degree of noncompliance in Article 7);
- (2) may be restored or reconstructed after damage from fire or other catastrophe, provided that the reconstruction does not increase the degree of noncompliance which existed prior to the damage and that the reconstruction occurs within one year of such damage;

- (3) may be structurally enlarged, expanded or moved, upon approval of the Zoning Administrator, provided the enlargement, expansion or relocation does not increase the degree of noncompliance;
- (4) may, subject to conditional use review under Section __, undergo alteration or expansion which would increase the degree of noncompliance solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations (e.g., handicap access ramp in accordance with ADA standards); and/or

(C) **Nonconforming Uses.** Any use of land or a structure which does not conform to the uses allowed for the zoning district in which it is located shall be deemed a nonconforming use. Nonconforming uses which legally exist on the effective date of these regulations may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

- (1) shall not be re-established or continued following abandonment or discontinuance resulting from structural damage from fire or other catastrophe, unless the nonconforming use is carried on uninterrupted in the undamaged part of the structure, or the use is reinstated within one year of such damage;
- (2) shall not be re-established if such use has been changed to, or replaced by, a conforming use, or if such use has been discontinued for a period of one year, regardless of the intent to re-establish such prior use;
- (3) shall not be changed to another non-conforming use; and
- (4) shall not be moved, enlarged, or increased by any means whatsoever, nor shall a nonconforming use be moved to a different lot within the same district in which it is located.

Section 3.9 Open Storage of Junk and Vehicles

(A) The dumping, burying, disposing, or burning of garbage, refuse, scrap metal, rubber, or similar materials is prohibited except in salvage, disposal or recycling facilities specifically permitted for such use under applicable municipal and state regulations.

(B) In any district, junk, salvaged materials, or more than two (2) motor vehicles or portions thereof which are non-operating and not registered with the state, with the exception of vehicles or materials used in farming or forestry operations, shall be stored in an enclosed area or in an area concealed from public roads (also See Salvage Yards, Section 4.10).

Section 3.10 Parking and Loading Requirements

(A) **Parking.** Adequate provision shall be made so that normal vehicular traffic associated with any use may be parked off of public roads and rights-of way. Spaces shall be provided as follows whenever any new use is established, or when the present use is expanded or changed:

- (1) A minimum number of parking spaces as determined by proposed use shall be provided in accordance with the requirements listed in Table 4.1.
- (2) An off-street parking space shall have a minimum width of nine (9) feet, a minimum length of twenty (20) feet, and adequate maneuvering room and access to a public road. For purposes of initial calculation, an off-street parking space with access and maneuvering room may be estimated to be three hundred (300) square feet.
- (3) In addition to the requirements listed in Table 3.1, all multi-family, public, commercial and industrial developments must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal requirements.

Table 3.1 Minimum Off-Street Parking Requirements	
Use	Parking Spaces
Residential	2 per dwelling unit
Accessory dwelling	1 per dwelling unit
Home Occupation/Cottage Industry	2 per dwelling unit, and 1 per additional employee
Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Home Day Care	2 per dwelling unit, and 1 per additional employee
School, Child or Day Care (6 or more children)	3 spaces per 10 children enrolled at the facility
Lodging (hotel, motel, inn, lodge)	1 per lodging unit, and 1 per employee for the largest shift
Care Facilities (6 or more residents)	1 per 4 beds, and 1 per employee for the largest shift
Public assembly (churches, auditoriums, etc.)	1 per 4 seats or 200 sq. ft. of gross floor area, whichever is greater
Personal Services	1 per employee, and one per customer service station
Commercial/Retail/Office	1 per 250 sq. ft. of gross floor area
Restaurants/Eating Establishments	1 per 4 seats, and one per employee for the largest shift
Industry	1 per employee
Mixed/Multiple Use	total required per each individual use
Storage, warehouses, other non-public uses	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
Unspecified	As determined by the Development Review Board under conditional use review

- (4) The parking of motor vehicles may be allowed in setback areas unless specifically prohibited under other provisions of this bylaw, or as otherwise required under conditional use review.
- (5) Parking areas associated with proposed conditional uses shall be located and landscaped in accordance with the standards set forth in Section 5.3.

(B) Loading and Service Areas. Where a proposed development will require the frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas may also be required for emergency vehicles, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use. All loading and service areas shall be clearly marked and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections or to or from any internal road or access.

(C) Waivers. The Development Review Board may require additional parking and loading spaces, subject to conditional use review under Section 5.3, if it is found that the minimum standards are not sufficient to accommodate the intended use. The Development Review Board may also, subject to conditional use review, waive on-site parking, loading and/or service area requirements based on the Board's determination under one or more of the following provisions, that, due to circumstances unique to the development, the strict application of these standards is unnecessary:

- (1) green areas are set aside and maintained as open space for future conversion to parking, loading or service areas in the event that the space(s) initially permitted are deemed inadequate to meet demonstrated need; and/or
- (2) shared use of parking, loading and/or service areas on the same or contiguous lots by two or more establishments is proposed; and/or
- (3) sufficient off-site public parking exists within reasonable walking distance of the establishment; and/or
- (4) the proposal is for the development of multi-family, elderly and/or affordable housing units.

Section 3.11 Performance Standards

(A) The following standards apply to all uses, with the exception of agriculture and forestry, in all districts. In determining ongoing compliance, the burden of proof shall fall on the applicant and/or all assessors and assigns. No use shall cause, create or result in:

- (1) **smoke dust, odors, noxious gases, or other forms of air pollution** which constitute a nuisance to neighboring landowners, businesses, or residents; which endanger or adversely affect public health, safety, or welfare; or which are offensive or uncharacteristic of the area;
- (2) **noise** which is excessive at the property line and represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area. In no case will noise levels exceed sixty (60) decibels as measured at the nearest property line;
- (3) **noticeable, or clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments;
- (4) **glare, lume, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is detrimental to the public health, safety, or welfare;
- (5) **fire, safety, explosive, radioactive emission or other hazard** which endangers the applicant's or neighboring properties, or the general public or which results in a significantly increased burden on municipal facilities and services;
- (6) **liquid or solid wastes or refuse** in excess of available capacities for proper disposal; which cannot be disposed of by available or existing methods without undue burden to municipal facilities; which pollute ground and surface waters; or which are otherwise detrimental to the public health, safety, and welfare.

(B) Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Agency of Agriculture, Food & Markets, as revised (see Section 6.5).

(C) Forestry operations shall at minimum observe Acceptable Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation, as revised (see Section 6.5).

Section 3.12 Rivers, Streams and Wetlands

(A) To prevent soil erosion, protect wildlife habitat and maintain water quality, an undisturbed, vegetated buffer strip shall be maintained for a minimum of fifty (50) feet from all wetlands, streams and rivers. The 50' buffer strip shall be measured from the mean water mark or delineated wetland boundary. No development, excavation, landfill or grading shall occur within the buffer strip, and vegetation shall be left in an undisturbed state, with the exception of clearing and associated site development necessary to accommodate the following:

- (1) Road, driveway and utility crossings.
- (2) Streambank stabilization and restoration projects, in accordance with all applicable State and Federal regulations.
- (3) Unpaved bicycle and pedestrian paths and trails.
- (4) Public recreation facilities and improved river/lake accesses.

(B) The expansion or enlargement of any structure in existence prior to the effective date of this ordinance and not in compliance with subsection 4 (A), above, is permitted with the approval of the Development Review Board in accordance with Section 3.8.

(C) For development subject to conditional use review, minimum required setback and/or undisturbed buffer strip distances may be increased as appropriate based on site, slope or soil conditions and the nature of the proposed use.

Section 3.13 Signs

(A) **Exemptions.** A zoning permit shall be required prior to the erection, construction or re-placement of any outdoor sign, except for those listed in the Column 1 of Table 3.2 which shall be exempt from this bylaw unless otherwise specifically prohibited under subsection (B).

(B) **Prohibited Signs.** The signs listed in the Column 2 of Table 3.2 shall be prohibited in all districts.

(C) **General Standards.** All signs, other than those specified under subsection (A), shall require a zoning permit issued by the Administrative Officer in accordance with the following requirements pertaining to all signs:

- (1) No outdoor advertising signs shall be permitted in any district except for the purposes of identifying an existing, on-premise recreational, commercial, business, public or industrial use in those districts where such uses are permitted.
- (2) Externally illuminated signs shall be lighted so as not to produce undue glare, hazards, or distractions; internally illuminated signs are prohibited. A constant, shielded light source may be used for indirect lighting, provided that the lighting is directed only on the sign surface, preferably from above, and does not adversely affect neighboring properties, rights-of-way, or vehicular traffic. The light source shall not be visible from adjacent properties or roads.
- (3) No sign shall be illuminated during hours when the premises are not occupied or open for business.
- (4) No sign shall contain string lighting, pennants, or similar attention gathering devices, nor may they contain or support any device capable of emitting noise.
- (5) Free-standing signs, as measured from the average grade of the ground to the top of the supporting structure, shall not exceed twelve (12) feet in height.
- (6) Wall signs and projecting signs shall be securely fixed to the wall of a principal structure, and shall not obscure architectural features of the building.
- (7) Projecting signs shall not exceed six (6) square feet in area or extend over public rights-of-way.

Table 3.2 Exempted & Prohibited Signs	
1. Exempted Signs (see Section 3.13 (A))	2. Prohibited Signs (see Section 3.13 (B))
Signs erected by the state or town on public roads	Signs which impair highway safety.
Non-advertising signs placed for directional, safety or public service purposes.	Signs which are animated, flashing, made of reflective material or are intermittently or internally illuminated.
One residential sign per dwelling unit identifying the occupant, not to exceed two (2) square feet in area; and residential flags or banners intended solely for ornamental or non-advertising purposes.	Signs painted on or attached to rock outcrops, trees, or similar natural features.
Signs relating to trespassing and hunting, each not to exceed two (2) square feet in area	Advertising signs or banners attached to utility poles or town sign posts.
Temporary auction, lawn, or garage sale or real estate for sale signs, not to exceed two (2) in number or six (6) square feet in total area, which shall be removed immediately following the event or sale.	Roof and wall signs which extend above the eave.
Temporary election signs to be posted and removed in accordance with state law.	Permanent signs which project over public rights-of way or property lines.
Temporary signs or banners advertising public or community events, to be displayed in designated locations on town property with the permission of the Selectboard, which shall be removed immediately following the event.	Signs identifying residential subdivisions and/or developments.
Temporary real estate sign not exceeding six (6) square feet in total area	Signs identifying businesses or uses which are no longer in existence.
One (1) temporary construction sign, not to exceed sixteen (16) square feet in area or ten (10) feet in height, may be placed on any site under development providing such sign is promptly removed immediately following completion of construction.	Signs located on motor vehicles which are used primarily as a support or foundation.
Signs or bulletin boards incidental to places of worship, schools, libraries or public facilities, not to exceed one per establishment, 16 square feet in total area, or six (6) feet in height above ground level	Off-premises signs, except for those which conform to state laws.
Unlit wall-mounted or freestanding signs advertising a home occupation, home based business or home day care facility, not to exceed one (1) per residential dwelling or three (3) square feet in area.	
On-premise historic or landmark signs, not to exceed (1) one in number or six (6) square feet in area.	
Wall murals intended solely for artistic, non-advertising purposes.	
Window signs which do not exceed thirty (30) percent of the window pane area.	

- (8) Notwithstanding district setback requirements for structures, free-standing signs may be placed at the edge of the highway right-of-way; however, such signs shall not obstruct sight distances or travel lanes or otherwise create a safety hazard, nor be located within twenty (20) feet of an adjacent private property as measured from the property line, unless combined on the same stand with the sign of an adjacent business
- (9) All permitted signs shall be maintained in a secure and safe condition.
- (10) Nothing in this bylaw shall prevent normal sign maintenance and repair, including the replacement of broken parts. Nonconforming signs may remain in use unless they are damaged beyond fifty (50) percent of their appraised value, and/or are reconstructed, remodeled, relocated, replaced or enlarged.

(D) **Specific Standards.** The following sign provisions apply to specific uses as follows:

- (1) Individual **business, mixed use or commercial** structures are allowed a maximum of two (2) fixed signs, including not more than one (1) freestanding sign. No one sign shall exceed sixteen (16) square feet in area. In addition, one (1) moveable "sandwich board" sign advertising specials or events, not exceeding twelve (12) square feet in area or four (4) feet in height, and set back from road rights-of-way and property lines, may also be permitted.
- (2) Individual **industrial, manufacturing, warehouse and storage** uses are allowed one (1) freestanding, wall or projecting sign, not to exceed sixteen (16) square feet in total area.
- (3) **Gasoline sales**, in addition to the signs allowed for business under (1), are allowed to have either one (1) pricing sign which does not exceed twelve (12) square feet in area, or pump-top pricing signs, each not to exceed two (2) square feet in area.
- (4) No residential sign shall exceed ten (10) square feet in total area.

(E) **Exceptions.** Proposed signs which may not otherwise meet the requirements of this Section may be approved by the Development Review Board subject to conditional use review under Section 5.3 and a finding that the sign has distinctive artistic and/or cultural merit which will contribute significantly to the character of the neighborhood and community.

(F) **Measurement.** When computing the total number of signs or permissible sign area for any use, the following shall apply:

- (1) Existing signs, except for those specifically exempted under Subsection (A), shall be included in the calculation of the total number and area;
- (2) Freestanding and projecting signs printed back-to-back (having two visible sides) shall be counted as one sign, and the area shall be computed for one side only;
- (3) Signs consisting of freestanding letters or numerals shall include any intervening spaces (the entire message area), in the calculation of total sign area;
- (4) Sign area measured shall be the area included within the extreme limits of the sign surface, excluding supporting structures.

Section 3.14 Temporary Uses and Structures

(A) A temporary permit may be issued by the Administrative Officer for non-conforming uses, excluding residential dwellings, which are incidental to a construction project, for a period not exceeding one (1) year, conditional upon written agreement by the owner to remove the structure and/or discontinue the use upon expiration of the permit.

(B) Any trailer used for storage or other accessory use for a period exceeding thirty (30) days shall be considered a structure subject to all of the terms and conditions of this bylaw.

Section 3.15 Water Supply & Wastewater Disposal

(A) **Compliance with State & Local Regulations.** No building or structure intended for human occupancy shall be erected, altered or converted to another use unless adequate water supply and wastewater disposal systems are provided in compliance with all applicable municipal and state regulations. For uses requiring approval under state or municipal on-site sewage disposal regulations, a copy of the permit must be submitted to the Zoning Administrator prior to the issuance of a zoning permit under Section 6.1.

(B) **Applicability of Dimensional & Siteing Standards.** For the purposes of this bylaw, all wastewater disposal systems, including septic tanks, pump stations and disposal (leaching) fields shall be considered accessory structures to a principal use and shall comply with all setback and location standards for the district in which the system is located, including any limitation on the placement of accessory structures at or above a specified elevation in the Forest Reserve District (see Table 2.4).

(C) **Modification of Dimensional Standards.** The Development Review Board may waive dimensional standards, including setback standards under Article II, for the installation or upgrade of a wastewater disposal system as a conditional use under Section 5.3 in instances involving the modification or replacement of an existing disposal system. In waiving dimensional standards, the Board shall determine that:

- (1) no other options are available on the parcel to accommodate the new or modified septic system;
- (2) that the existing system poses a threat to public health and water quality unless the system is modified or replaced;
- (3) the modification of applicable standards is the minimum necessary to accommodate the new or modified system; and
- (4) any modification of shoreland setbacks complies with Table 2.5 subsection (E)(3).

ARTICLE IV. SPECIFIC USE PROVISIONS

Section 4.0 Specific Standards for Designated Uses

The following standards shall apply to the designated use in all zoning districts in which the respective uses are allowed. Such uses may be subject to conditional use review in accordance with Section 5.3. Variances from these standards shall not be granted by the Development Review Board. If there is a conflict between a standard in this section and a standard in another section of this Bylaw, the more restrictive standard shall apply.

Section 4.1 Accessory Dwelling

(A) **Accessory Dwellings.** In accordance with the Act [§4412(1)(E)], one accessory dwelling unit that is located within or appurtenant to a single family dwelling may be allowed as a permitted use in any district subject to review by the Zoning Administrator and the following requirements:

- (1) the floor area of the accessory dwelling, with the exception of agricultural accessory dwellings, shall not exceed 30% of the existing total habitable floor area of the single family dwelling, excluding unfinished attics and basements, or 800 square feet of habitable floor area, whichever is greater;
- (2) the property shall have sufficient wastewater capacity;
- (3) all applicable setback and coverage requirements specified in these regulations shall be met;
- (4) one (1) on-site parking space shall be provided for the resident(s) of the accessory dwelling, and
- (5) the accessory dwelling may be served by the same access and driveway as the single family dwelling.

(B) Notwithstanding subsection (A), an accessory dwelling that is located in an accessory structure constructed after July 1, 2004, or which results in the expansion of the height or floor area of the principal single family dwelling, may only be allowed by the Development Review Board as a conditional use under Section 5.3.

(C) **Accessory Farm Dwellings.** Up to two dwelling units, in addition to the primary residence, which are accessory to an operating farm, may be permitted by the Administrative Officer, subject to the following standards:

- (1) the accessory farm dwelling is occupied by full time employees working on said farm, and their immediate family;
- (2) the accessory farm dwelling is limited to a mobile home, as defined in Article VII;
- (3) the accessory farm dwelling shall meet all requirements applicable to single family dwellings, including dimensional standards and access and parking standards;
- (4) the accessory farm dwelling(s) shall be removed from the parcel in the event they no longer house employees of the farm, or in the event the farm ceases operation ;and
- (5) adequate water supply and wastewater disposal systems are installed in accordance with applicable municipal and state regulations.

(D) A zoning permit issued for an accessory dwelling (including an accessory farm dwelling) shall clearly state that the dwelling is permitted only as an accessory to the principal residential use of the property and shall be retained in common ownership. Such a dwelling may be subdivided and/or converted for conveyance or use as a principal dwelling only if it is found to meet all current municipal

regulations applying either to individual single family dwellings or, in the case of an attached accessory dwelling, to multi-single family dwellings, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to conversion to, or conveyance as, a principal dwelling.

Section 4.2 Campers

No camper (travel trailer, recreation vehicle) shall be parked on any public or private property except in conformance with the following regulations:

- (A) Campers are permitted to be parked in approved campgrounds for temporary periods and on construction sites subject to the standards contained in Section 4.14.
- (B) One registered camper may be parked on the premises of a principal dwelling provided that it is parked no closer than six (6) feet to any lot line; is not occupied for dwelling purposes for more than thirty (30) days per calendar year.
- (C) Any camper used for living quarters for more than 30 days per calendar year, or is sited so as not to be readily moveable, shall be deemed a dwelling and shall be subject to all zoning regulations applicable to accessory dwellings (see Section 4.1) as appropriate.
- (D) Any wastewater or sewage generated by a camper shall be disposed of in accordance with all applicable local, state and federal regulations.

Section 4.3 Day Care & Home Child Care Facilities

(A) **Home Child Care.** In accordance with the Act [§4412(5)], a state registered or licensed day care facility located within a single family residence serving six (6) or fewer children on a full time basis in addition to not more than four (4) children on a part time basis, in addition to the care giver's own children, shall be considered by right to constitute a permitted single family residential use of the property. No conditional use approval shall be required; a zoning permit is required, and may only be issued by the Administrative Officer, after the applicant for a day care facility:

- (1) submits proof that the facility is properly registered or licensed by the state to accommodate not more than six (6) children on a full time basis and not more than four (4) children on a part time basis;
- (2) meets all zoning district requirements pertaining to single family dwellings; and
- (3) fulfills the application requirements of Section 6.1 of this bylaw.

(B) **Other Day Care Facilities.** Day care facilities serving more than six (6) full time children and four (4) part time children may be permitted within designated zoning districts subject to Conditional Use Review in accordance with Section 5.3.

Section 4.4 Group Homes

(A) In accordance with the Act [§4412(1)(G)], a state licensed or registered residential care home or group home, serving not more than eight (8) persons who have a disability or handicap, as defined in 33 VSA §4902(3)(A), shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be considered if it locates within one thousand (1,000) feet of another community care or groups home. No conditional use approval shall be required; a zoning permit is required, and may only be issued by the Administrative Officer, after the applicant for a group home facility:

- (1) submits proof that the facility is properly registered or licensed by the state to accommodate not more than eight (8) persons, excluding on-site caregivers;
- (2) meets all zoning district requirements pertaining to single family dwellings; and
- (3) fulfills the application requirements of Section 6.1.

(B) Group homes or community care facilities serving more than eight (8) persons may be permitted within designated zoning districts subject to conditional use review in accordance with Section 5.3.

Section 4.5 Home Based Businesses (Home Occupations, Cottage Industries)

(A) **Home Occupations** In accordance with the Act [§4412(4)] no provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area. A home occupation shall be permitted which is customarily conducted entirely within a dwelling or accessory structure and carried on by the occupants thereof, and which is clearly incidental and secondary to the use for dwelling purposes, and does not change the character of the dwelling or the neighborhood. Home occupations, as distinguished from cottage industries under this Section, are permitted as an accessory use in all districts where residential uses are permitted. A zoning permit shall be required for a home occupation in accordance with the following.

- (1) The home occupation shall be conducted on-site by residents of the dwelling and no more than two non-resident employees.
- (2) The home occupation shall be carried on within a minor portion of the dwelling or a minor portion of accessory building such as a garage or barn. In no case shall the home occupation occupy greater than 50% of the floor area of the primary dwelling.
- (3) Exterior displays of goods and wares, the exterior storage of materials, or other exterior indications of the home occupation, including alterations to the residential character of the principal or accessory structures shall not be permitted. One unlit exterior sign is permitted in accordance with Section 3.13.
- (4) No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use in the neighborhood.
- (5) Home occupations shall conform to all performance standards under Section 3.11.

- (6) Off street parking shall be provided to accommodate residents and non-resident employees, as required under Section 3.10.

(B) **Cottage Industries** Cottage industries or home-based businesses (as distinguished from Home Occupations) may be permitted in designated zoning districts subject to conditional use review in accordance with Section 5.3 and the following additional provisions:

- (1) The business owner shall reside on the lot.
- (2) The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall occupy less than 50% of the combined floor area of all structures on the lot. However, the Development Review Board may permit the use of floor space in excess of 50% of the combined floor area of all structures on the lot providing the use does not change the residential character of the property or neighborhood.
- (3) The business shall not necessitate any change in the outward appearance of the dwelling unit or accessory structures on the lot other than the addition of one, non-illuminated sign that meets the requirements of Section 3.13.
- (4) The residents of the dwelling unit, and no more than six (6) non-resident employees may be employed on-site at any one time.
- (5) The business shall not generate traffic, including but not limited to delivery truck traffic, in excess of volumes that are characteristic of the neighborhood.
- (6) Adequate off-street parking shall be provided for all residents, employees and customers in accordance with Section 3.10.
- (7) There shall be no storage of hazardous waste or materials; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.
- (8) The business shall be visually compatible with neighboring lots and uses; landscaping and screening may be required as appropriate. In addition, any outdoor storage of materials, including building or construction materials, unregistered vehicles or heavy equipment, firewood or lumber, must be completely screened year-round from the road and from neighboring properties.
- (9) On-site wholesale and/or retail sales shall be limited to products produced on the premises.
- (10) The business shall not result in hazards to public safety and welfare or to neighboring properties, and shall be subject to applicable performance standards included under Section 3.11. Conditions may be placed on the hours of operation as appropriate.
- (11) The permit for a cottage industry shall clearly state that the industry is a home-based business which is accessory to the principal residential use, and shall be retained in common ownership and management. A cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations and bylaws pertaining to such use, including all density, dimensional, and other requirements for the district in which it is

located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.

(C) **Rural Industries.** Also see standards for Rural Industries under Section 4.9.

Section 4.6 Land Filling, Excavation and Extraction

(A) The removal of soil, sand, rock, stone or gravel, except when incidental to the construction of a building on the same premises, may be permitted in designated zoning districts subject to Conditional Use Review in accordance with Section 5.4 and, findings that the proposed activity meets the standards below in addition to any other applicable standards contained in this Bylaw, including but not limited to performance standards under Section 3.11. Any zoning permit issued for such operations shall be limited to a period not to exceed five (5) years, and the following provisions.

(B) **Application Requirements.** In addition to application requirements under Sections 6.1 and 5.3, the applicant shall submit two (2) copies of proposed erosion control and site restoration plans prepared by a licensed engineer, showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation.

(C) In granting conditional approval, the Development Review Board shall find that the proposed activity will not cause any hazard to public health or safety, or otherwise have an undue adverse effect on:

- (1) neighboring properties and uses;
- (2) public facilities and services;
- (3) surface and ground water; or
- (4) the scenic or natural beauty of the area, other aesthetic values, historic sites or rare or irreplaceable natural resources or areas.

(D) In granting approval, the Development Review Board shall consider and impose conditions with respect to the following factors as it deems appropriate:

- (1) depth of excavation or quarrying above the water table;
- (2) slopes created by removal;
- (3) effects on surface drainage on and off-site;
- (4) storage of equipment and stockpiling of materials on-site;
- (5) hours of operation for blasting, trucking, and processing operations;
- (6) effects on neighboring properties due to blasting, excavation or crushing activities, or other noise, dust, or vibration;
- (7) creation of nuisances or safety hazards;
- (8) effects on traffic and road conditions, including potential physical damage to public highways;
- (9) temporary and permanent erosion control;
- (10) effect on ground and surface water quality, and drinking water supplies;
- (11) effect on natural, cultural, historic, or scenic resources on-site or in the vicinity of the project;
- (12) effect on agricultural land; and
- (13) site reclamation.

(E) **Surety Requirement.** In accordance with the Act [§4464(4)(6)] a performance bond, escrow account, or other surety acceptable to the Selectboard shall be required to ensure site reclamation upon completion of excavation projects, to include any regrading, reseeding, reforestation or other activities that may be required.

Section 4.7 Mobile Home Parks

Mobile home parks shall be developed in accordance with the procedures for Planned Residential Development (Section 5.4) and applicable state requirements [10 V.S.A., §153]. Where there is a conflict between the provisions of this bylaw and state regulations, the latter shall take precedence.

Section 4.8 Public Facilities

(A) In accordance with the Act [§4413(a)], the following public facilities or uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that such regulations do not have the effect of excluding, or interfering with the intended use or function:

- (1) state or community owned and operated institutions and facilities;
- (2) public and private schools and other educational institutions certified by the Vermont Department of Education;
- (3) churches and other places of worship, convents, monasteries, and parish houses;
- (4) public and private hospitals;
- (5) regional solid waste management facilities certified by the state (under 10 V.S.A. Chapter 159);
- (6) hazardous waste management facilities for which a notice of intent to construct has been received by the state (under 10 V.S.A. §6606a).

(B) Reasonable provision has been made for siting of the above public facilities and uses within specified zoning districts, as summarized in Table 4.1. Such facilities or uses must meet applicable district requirements, and may be subject to conditional use review under Section 5.3; however associated conditions of approval shall not exceed allowed regulation, as specified in the Act and Subsection (A).

(C) In accordance with the Act [§4413(b)], public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board (under 30 V.S.A. §248) are specifically exempted from municipal land use regulations.

TABLE 4.1 PROTECTED PUBLIC USES	
Facility	Specified District(s)
Public and private hospitals.	All Districts
Regional solid waste management facilities certified by the State [10 V.S.A., Chapter 159].	All Districts
Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A., §6606a].	All Districts
State or community owned and operated institutions and facilities [see Public Facility].	All Districts
Public and private schools and other educational institutions certified by the Vermont Department of Education. (see Educational Facility)	Village District
Churches and other places of worship, convents and parish houses [see Place of Worship]	Village District

Section 4.9 Rural Industry

Rural industry (as distinguished from cottage industries under Section 4.5) may be permitted in designated zoning districts subject to conditional use review in accordance with Section 5.3, and conformance with the following provisions:

- (1) Total floor area shall not exceed 10,000 square feet of enclosed space and shall be located on a lot with a minimum area of ten (10) acres.
- (2) Overall building height shall not exceed 35 feet; however the height of individual attached structures may exceed 35 feet, subject to review under Section 3.6.
- (3) All rural industry shall meet minimum setback requirements for the district in which it is located. In addition, a strip of land at least 50 feet in depth shall be maintained as a landscaped buffer area along all property lines and rights-of-way. No parking, building or other structure shall be located in this buffer area. Additional landscaping, screening and/or fencing along property boundaries may also be required as appropriate for screening, safety and security.
- (4) Rural industries shall be limited to those manufacturing, fabrication, processing or warehousing activities that will not produce noise, vibration, noxious emissions, air or water pollution, fire or explosion hazard which would endanger or disturb neighboring properties. Such uses must comply with all performance standards under Section 3.11; additional conditions may be imposed to protect public health, safety, and welfare, and municipal facilities and services.
- (5) All aspects of the industrial process shall be carried out within the principal building. Accessory structures are to be used only for the storage of equipment and materials, or accessory uses such as office space.
- (6) Rural industry shall have frontage on public roads or access to such roads from a private industrial development road or driveway.

- (7) On-site wholesale and/or retail sales shall be limited to products produced on the premises.

Section 4.10 Salvage Yards

(A) Salvage yards may be permitted within designated zoning districts subject to review and approval by the Elmore Selectboard under separate statute [24 V.S.A., Chapter 61, Subchapter 10], and conditional use review under Section 5.3. In addition to the standards set forth in Section 5.3, salvage yards shall comply with the following provisions:

- (1) A minimum of three (3) contiguous acres shall be required for new yards. No yard shall exceed five (5) acres in total area or extent.
- (2) Yards shall be set back at least one hundred (100) feet from all property lines, road rights-of-way, surface waters, and wetlands. Required setbacks may be increased as appropriate based on specific site conditions, and to protect water quality and neighboring properties.
- (3) Yards shall be screened year-round from public view and from adjoining residential properties. Additional landscaping, fencing or other forms of screening may be required as appropriate.
- (4) Yards shall be secured as necessary to protect public health, safety, and welfare, and neighboring properties.
- (5) Exterior lighting shall be the minimum required for security and safe operation.
- (6) The on-site storage of materials shall not adversely affect surface, ground or drinking water supplies, or other identified natural, cultural, or scenic features on-site, or in the vicinity of the yard.
- (7) Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.
- (8) All materials shall be removed from the site within twelve (12) months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the clean-up and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. A site restoration plan may be required.

Section 4.11 Subdivision of Land

All subdivisions shall be reviewed and approved in accordance with the procedures and standards set forth in the *Elmore Subdivision Regulations*.

Section 4.12 Telecommunications Facilities

(A) New or expanded telecommunication facilities, including but not limited to towers and accessory structures; may be permitted in designated zoning districts subject to conditional use review under Section 5.3 and the following provisions:

- (1) A proposal for a new tower shall not be permitted unless the applicant demonstrates to the satisfaction of the Development Review Board that the equipment planned for the proposed tower cannot be accommodated on an existing approved tower, building or structure.
- (2) All new towers shall be designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user if the tower is less than or equal to 75 feet in height, and at least two additional users if it exceeds 75 feet in height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights.
- (3) All towers, including antennae, shall be less than 100 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.
- (4) No wireless telecommunication site shall be located within 500 feet of an existing residence, school or residential care or health facility.
- (5) Towers shall be set back from all property lines and public rights of-way for a distance equaling their total height, including attached antennas, unless otherwise permitted by the Development Review Board:
 - a. if tower design and construction guarantees that it will collapse inwardly upon itself, and no liability or risk to adjoining or public property shall be assumed by the municipality; or
 - b. to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.
- (6) Tower construction and wiring shall meet all state and federal requirements, including but not limited to Federal Communication Commission requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety.
- (7) New towers shall be located to minimize their visibility. No tower shall be located on an exposed ridge line or hill top, or within the Elmore Mountain Telecommunications Exclusion Area (depicted on the official zoning map). New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques. Towers should be installed in forested settings wherever feasible. No tower, antenna and/or associated fixture or equipment shall exceed a height of 20 feet greater than the average height of the canopy measured within a 300 feet radius of the facility. A management plan may be prepared and submitted to the Board to ensure that the adjoining tree cover will be maintained to create the visual impression of the tower and/or associated equipment emerging from a largely unbroken tree canopy and protruding no more than 20 feet above that canopy. Commercial wireless

towers shall be of a monopole design unless it is determined by the Board that an alternative design would better blend into the surrounding environment.

- (8) Towers shall be enclosed by security fencing at least 6 feet in height, and shall be equipped with appropriate anti-climbing devices.
 - (9) Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower.
 - (10) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
 - (11) Access roads, and all utility buildings and structures accessory to a tower shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate to site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed under ground.
 - (12) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease which requires the applicant to remove the tower and associated facilities shall be submitted at the time of application. A bond or other acceptable form of surety may be required to ensure tower removal and site reclamation.
- (B) In addition to the site development plan required under Section 5.12 applications for new towers shall also include the following:
- (1) a report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
 - (2) information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available.
 - (3) a letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - (4) written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration;
 - (5) any additional information needed to determine compliance with the provisions of these regulations.
- (C) Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, or other structures may be permitted by the zoning administrator without conditional use approval provided that:

- (1) no changes are made to the height or appearance of such structure except as required for mounting;
- (2) the height of the antenna as mounted does not exceed height requirements under Section 3.6;
- (3) no panel antenna shall exceed 72 inches in height or 24 inches in width;
- (4) no dish antenna shall exceed 3 feet in diameter;
- (5) any accompanying equipment shall be screened from view.

(D) The following are specifically exempted from the provisions of these regulations:

- (1) A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level.
- (2) All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

ARTICLE V. DEVELOPMENT REVIEW

Section 5.1 Applicability of Development Review Standards

(A) **Conditional Use Review** standards per Section 5.3 shall apply only to those uses designated as conditional uses in Article II or as otherwise specified under Article IV. Conditional use approval by the Development Review Board is required for construction of new buildings, the substantial improvement of existing buildings or floodway development within the Flood Hazard Area Overlay District (FLD). Uses designated as permitted uses are not subject to conditional use review standards.

(B) **Planned Residential Development (PRD)** standards per Section 5.4 may be applied at the request of the applicant to any size parcel to be subdivided.

Section 5.2 Application Requirements

(A) **Site Development Plan.** An applicant for conditional use or planned residential development review shall submit, in addition to zoning permit application requirements under Section 6.1, one (1) original and three (3) complete copies of a site development plan to include the following:

- (1) the names and addresses of the property owner(s) of record, the applicant if different from the property owners, and the person(s) or firm preparing the application and plan;
- (2) the names and addresses of all adjoining property owners, as determined from the current Elmore Grand List;
- (3) a site location map showing the location of proposed development in relation to other properties, surface waters, land uses, roads and utilities within the vicinity of the project; and
- (4) a site plan, drawn to scale, prepared by a licensed engineer or surveyor, or as otherwise approved by the Development Review Board, which shows the following:
 - a. north arrow, scale and application date;
 - b. existing and proposed property boundaries, easements and rights-of-way;
 - c. zoning district boundaries;
 - d. existing site features, to include prominent topographic features and areas of steep slope (15% or greater) and extremely steep slope (25% or greater); surface waters, wetlands and associated buffers; designated floodplain and source protection areas; land use and land cover; and critical habitat areas and historic sites;
 - e. existing and proposed structures, including building footprints, building elevations depicting general design features, walls and fence lines, utilities, roads, driveways, parking and loading areas;
 - f. existing and proposed traffic and pedestrian circulation patterns, including accesses onto or connections with adjoining properties, public roads and public waters, and associated sidewalks, pathways or trails serving the proposed development;
 - g. water supply and wastewater disposal design details; and
 - h. proposed grading, drainage, landscaping, screening, signage, and/or lighting details;
- (5) for development in the flood hazard area overlay district, the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings; the elevation, in relation to mean sea level, to which buildings will be floodproofed; proposed floodproofing measures; and any comments received from the Vermont Department of Environmental Conservation following their review of the application; and

- (6) any additional information required by the Development Review Board to determine project conformance with the provisions of this bylaw (e.g., erosion control, stormwater management or site reclamation plans; traffic, fiscal or visual impact analyses).

(B) The application shall not be considered complete until all required forms, information and associated fees have been submitted. The Development Review Board may waive one or more application requirements upon determination that the information is unnecessary for the comprehensive review of the application. Such waiver shall be made at the time the application is accepted and deemed complete.

5.3 Conditional Use Review

(A) **Applicability.** Any use or structure requiring conditional use approval shall not be issued a zoning permit by the Administrative Officer until the Development Review Board grants such approval in accordance with the Act [§ 4414(3)], and the following standards and procedures.

(B) **Review Process.** Upon making the determination that the application as submitted is complete, the Development Review Board shall schedule a public hearing, warned in accordance with Section 6.7 (C). The Board shall act to approve, approve with conditions, or disapprove an application for conditional use review, within forty-five (45) days of the date of the final public hearing; and shall issue a written decision. The written decision shall include a statement of the factual bases on which the Board made its conclusions, a statement of those conclusions, any conditions, and shall specify the period of time within the decision may be appealed to the Environmental Court. Failure to act within the forty-five (45) day period shall be deemed approval.

(C) **General Standards.** Conditional use approval shall be granted by the Development Review Board upon finding that the proposed development will not result in an undue adverse impact on any of following:

- (1) **The capacity of existing or planned community services or facilities.** The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of such services and facilities including, but not limited to, schools, emergency services and road maintenance. Conditions may be imposed as appropriate to ensure that demand does not exceed available capacity.
- (2) **The character of the area affected.** The Board shall consider the location, scale, type, density and intensity of use associated with the proposed development in relation to the character of the area likely to be affected, as defined by the Board based on the Elmore Town Plan, applicable zoning district purposes and standards, submitted materials, and testimony presented at public hearing. Conditions may be imposed as appropriate to ensure project compatibility with the character of the affected area.
- (3) **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of projected traffic resulting from the proposed development in relation to the condition, capacity, safety, and function of roads and associated infrastructure (e.g., bridges, culverts) potentially affected the proposed development. Conditions may be imposed as appropriate to ensure that the condition, capacity, safety and function of roads and associated infrastructure are adequately maintained over the long-term.

- (4) **Bylaws in effect.** The Board shall consider whether the proposed development complies with all bylaws in effect at the time of application, including other applicable provisions of this zoning bylaw, and other prior municipal permits and/or approvals. Conditions may be imposed or incorporated as appropriate to ensure compliance with municipal bylaws and ordinances.
- (5) **The utilization of renewable energy resources.** The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources. Conditions may be imposed as appropriate to ensure long-term access, use and availability of such resources.

(D) **Specific Standards.** In addition to the General Standards set forth above, the Development Review Board may impose specific conditions or require project modifications to ensure the following:

- (1) **Design and Location of Structures.** The design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and requirements, existing site conditions and features, and adjoining structures and uses. Conditions may be imposed as appropriate with regard to siting, density, setbacks, height, bulk, massing, and materials, to ensure compatibility.
- (2) **Traffic and Pedestrian Circulation.** A coordinated, safe and efficient system for vehicular and pedestrian circulation will be provided on and off-site in accordance with all applicable municipal and state standards. Conditions may be imposed as appropriate with regard to intersections, pedestrian paths and crossings, and the number and size of curb cuts, including the reduction, consolidation or elimination of noncomplying curb cuts, and/or provisions for shared access with adjoining parcels (see Section 3.1).
- (3) **Parking and Service Areas.** Parking and service areas will be provided in accordance with the requirements of Section 3.10, and be designed to minimize off-site visibility and stormwater runoff. Nonresidential parking and service areas shall be located to the side or rear of buildings, unless otherwise approved by the Board in relation to existing site limitations. Conditions may be imposed as appropriate with regard to the extent, siting, landscaping, screening, paving, curbing and/or sharing of parking and service areas with adjoining parcels.
- (4) **Stormwater Management.** Stormwater management will be provided in accordance with the requirements of Section 3.4 so that stormwater runoff will not result in adverse impacts to neighboring properties, town roads, or water quality. A stormwater management and/or erosion control plan may be required as appropriate and incorporated as a condition to approval.
- (5) **Lighting.** Lighting associated with the proposed development will be the minimum required for safety and security, and will not adversely affect neighboring properties and uses or the quality of the night sky. Conditions may be imposed as appropriate with regard to the type, height, and placement of exterior lighting fixtures. A lighting plan may be required as appropriate and incorporated as a condition to approval.
- (6) **Landscaping & Screening.** Proposed landscaping and screening (which may include but not be limited to shade and street trees, shrubs, planting beds, buffers, and ground covers) will preserve and incorporate existing vegetation; be suited to existing site conditions; enhance features unique to

the site; and not obstruct scenic views or road visibility. Conditions may be imposed as appropriate with regard to the amount, type, size, and location of landscaping and screening materials. In the event that forest management or other site clearing occurs prior to the submission of an application, the Board may require re-vegetation/re-forestation of the site, or may limit development to the non-impacted portion of the property. A three (3) year landscaping plan, and/or bond or other surety to ensure installation and maintenance may be required as appropriate and incorporated as a condition to approval.

(E) Flood Hazard Area Development Standards. In addition to applicable general and specific standards set forth above, the Development Review Board may impose specific conditions or require project modifications for development within the Flood Hazard Area Overlay District in accordance with the following standards:

- (1) Development within floodways 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. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are specifically prohibited within the floodway.
- (2) All development shall be designed to (a) minimize flood damage to the proposed development and to public facilities and utilities; and (b) to provide adequate drainage to reduce exposure to flood hazards.
- (3) Structures shall be (a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (b) be constructed with materials resistant to flood damage, (c) be constructed by methods and practices that minimize flood damage, and (d) 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.
- (4) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- (5) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (7) New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
- (8) The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation,

- (9) Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of Subsection (8).
- (10) Existing buildings to be substantially improved for nonresidential purposes shall either (a) meet the requirements of subsection 8, or (b) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed 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.
- (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 registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other cover coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (12) Recreational Vehicles placed on sites within Zones A1-A30, AH and AE shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" of Section 60.3(c)(6).

5.4 Planned Residential Development (PRD) Review

(A) **Purpose.** In accordance with the Act [§4417], Planned Residential Developments (PRDs) are allowed in the Village, Rural-East, Rural-West and Shoreland Districts to encourage innovative and flexible design and development that will promote the most appropriate use of land, and specifically achieve one or more of the following objectives:

- (1) increase density, reduce lot size and/or facilitate the adequate and economical provision of streets and utilities in order to provide affordable housing;
- (2) cluster residential development to preserve and maintain open space, including but not limited to important resource or conservation lands; and/or
- (3) protect significant natural, cultural or scenic features as identified in the Elmore Town Plan, or through site investigation.

(B) **Review Process.** A PRD shall be reviewed in accordance with the procedures for conditional use review set forth in Section 5.3. An application for PRD approval shall include, in addition to the Site Development Plan under Section 5.2, a statement describing all proposed modifications, changes or supplements to existing bylaw requirements. Modifications of this bylaw approved by the Development Review Board shall be noted in writing and appended to the plat. All other provisions of this bylaw not specifically modified shall remain in effect and be applicable to the project. Approval granted by the

Development Review Board under this Section for a PRD involving the development of one or more uses subject to conditional use review shall not exempt the proposed development from subsequent Development Review Board review in accordance with Section 5.3 unless the Board specifically grants conditional use approval at the time of PRD approval.

(C) **Standards.** The modification of zoning regulations by the Development Review Board may be permitted simultaneously with the approval of the subdivision plat, in accordance with the following standards:

- (1) The PRD shall meet all applicable standards set forth in Section 5.3, and shall be consistent with the Elmore Town Plan and all other applicable municipal regulations and ordinances currently in effect. The PRD shall also meet all local and state regulations for sewage disposal and the protection of water quality.
- (2) The PRD shall represent an effective and unified treatment of the development site, including provisions as appropriate for the preservation or protection of surface and ground waters; wetland, stream bank, floodplain and lake shore areas; significant topographic features, including hilltops and ridgelines; areas of steep slope or shallow soil; significant resource lands, including agricultural and forest land; historic or archaeological sites and structures; natural and critical habitat areas; and open spaces, including scenic views and vistas.
- (3) A PRD shall include only residential uses and associated accessory structures and uses allowed within the district in which the PRD is located. The dwelling units permitted may, at the discretion of the Development Review Board, be of varied types, including single-family, two-family, or multi-family construction, and may be attached or detached. In no case shall the maximum number of units in a multiple family dwelling exceed six (6). Associated uses may include, but not be limited to home occupations, small day care centers, small group homes, and cottage industries.
- (4) The total number of dwelling units shall not exceed that which would be permitted in the Development Review Board's judgment if the parcel were subdivided into buildable lots in conformance with the district minimum lot area required for single family dwellings. The number of dwelling units allowed in a PRD may, at the discretion of the Development Review Board, be increased by up to twenty-five (25) percent of the number which the Board determines could be provided on the site in conformance with zoning district requirements. Density bonuses shall be granted only for PRDs in which seventy-five (75) percent or more of the total land area is to be set aside as open space, or for the provision of affordable or elderly housing.
- (5) The Development Review Board may allow for a greater concentration or intensity of residential development within some section(s) of the development than in others, on individual lots which are smaller than the minimum lot size for the district within which the PRD is located, provided that there is an offset by a lesser concentration in other sections, including the reservation of no less than 50% of the remaining land as open space.
- (6) The minimum front, side and rear yard setbacks at the periphery of the PRD shall be as dictated for the particular district unless otherwise specified by the Development Review Board. The Board may consider within the project area other setback standards, such as zero lot lines, as part of subdivision review.

- (7) All PRDs must also comply with the standards for subdivision set forth in Section 4.11. In addition, the Development Review Board may impose further restrictions on the height and spacing of buildings; and greater setback and screening requirements for structures, parking areas and other development along the perimeter of the project, and between built and open space areas.
- (8) Provision shall be made for the preservation of open space. Preserved open space shall be dedicated, either in fee or through a conservation easement to the Town, a community association comprising all of the present and future owners of lots in the subdivision, or a non-profit land conservation organization. Such easement shall be approved by the Development Review Board. Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. The location, size and shape of lands set aside to be preserved for open space shall be approved by the Board, in accordance with the following:
- a. Open space land shall provide for the protection of identified resources, including farmland, productive forest, wildlife habitat, natural areas, aquifer protection areas, surface waters, stream banks, lake shore, historic and archaeological sites, and scenic views and vistas.
 - b. Designated open space may include the portion of a single lot outside of a designated building envelope which is characterized by one or more of the above referenced features, or may encompass the contiguous boundaries of the above referenced feature located on multiple lots.
 - c. The location, shape, size and character of the open space shall be suitable for its intended use. Generally, open space shall be at least 50% of the total area for projects involving a parcel(s) of twenty-five (25) acres or more. For smaller parcels, open space should be in proportion to the size and scope of the project, and its intended use.
 - d. Open space shall be suitably improved and/or maintained for its intended use, except for open space containing natural or cultural resources worthy of preservation which may be required to be left unimproved. Provisions shall be made to enable lands designated for agriculture and forestry to be used for these purposes. Management plans for forests, wildlife habitat, and shorelands may be required by the Board as appropriate. Areas preserved for agricultural use should be of a size that retains their eligibility for state and town tax abatement programs.
 - e. Open space land shall be located so as to conform with and extend existing and potential open space lands on adjacent parcels.
 - f. Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the Board, that they will in no way disrupt or detract from the values for which the open space is to be protected.
- (9) Where a district boundary line divides a parcel, the Development Review Board may allow the development of a single PRD with a total density based on the combined allowable density of each district.
- (10) Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PRD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with district regulations.

- (11) PRDs are prohibited within the Forest District.

ARTICLE VI. ADMINISTRATION & ENFORCEMENT

Section 6.1 Zoning Permits

(A) **Permit Requirements.** No land development may commence, and no structure may be erected, substantially improved, moved, or changed in use without a zoning permit issued by the Administrative Officer in accordance with the Act [§4446], unless specifically exempted under Section 6.5.

(B) **Application Requirements.** Applications for zoning permits shall be submitted to the Administrative Officer on forms provided by the Town, in association with applicable permit fees. In addition the following are required:

- (1) **Permitted Uses.** Applications for permitted uses shall include a statement of the existing and intended use of land and structures; and be accompanied by two (2) copies of a sketch plan, drawn to an appropriate scale, that accurately depict the following:
 - a. the dimensions of the lot;
 - b. the location, footprint and height of existing and proposed buildings, accessory structures and/or additions;
 - c. the location of existing and proposed easements, rights-of-way, and utilities;
 - d. setback distances from property lines, rights-of-way and surface waters; and a surveyor's plot plan, if available.
- (2) **Other Uses.** Uses that require conditional use or planned residential development approval shall include, in lieu of a sketch plan, a site development plan and other information prepared and submitted in accordance with Section 5.2.

(C) **Action of the Administrative Officer.** No zoning permit shall be issued by the Administrative Officer for any use or structure which also requires the approval of the Planning Commission, Development Review Board, Select Board and/or Health Officer until all such approvals have been granted. The Administrative Officer shall within thirty (30) days of receipt of a complete application, including all application materials, fees and approvals, either issue or deny a zoning permit, or refer the application to the Development Review Board for review. If the Administrative Officer fails to act within the thirty (30) day period, a permit shall be deemed issued on the thirty-first (31st) day, except as provided in subsection (D), below.

(D) **Uses Subject to State Agency Referrals.** Applications for development within the Flood Hazard Overlay District shall be referred to the Floodplain Management Section of the Vermont Department of Environmental Conservation for review. No zoning permit shall be issued until a response has been received from the Department, or the expiration of 30 days following the submission of the application.

(E) **Issuance & Posting of Permits** Pursuant to the Act [§4448, §4449], a zoning permit shall be issued and writing and shall include a statement of the time within which appeals may be taken under Section 6.3; and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.

(F) **Public Notice.** Within three (3) days of issuance, the Administrative Officer shall deliver a copy of the permit to the Listers; and post a copy, for a period of fifteen (15) days from the date of issuance, at the Elmore Town Office.

(G) **Applications Submitted During Bylaw Adoption Process.** If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, the Zoning Administrator shall, for a period of 150 days following that notice, review any new application filed after the date of the notice under the proposed amendment and applicable existing bylaws and ordinances. If the proposed amendment has not been adopted by the conclusion of the 150-day period or if the proposed amendment is rejected, the permit shall be reviewed under existing bylaws and ordinances. An application that has been denied under a proposed amendment that has subsequently been rejected, or that has not been adopted within the 150-day period, shall be reviewed again, at no cost to the applicant, under the existing bylaws and ordinances, upon request of the applicant. Any determination by the Administrative Officer under this section shall be subject to appeal as provided in Section 6.3.

(H) **Effective Dates.** No zoning permit shall take effect until the time for appeal under Section 6.3 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal. Permits shall remain in effect for two (2) years from the date of issuance. If development as authorized by the zoning permit has not substantially commenced within this period, the zoning permit shall become null and void.

6.2 Certificates of Compliance

(A) The Development Review Board may require the completion of a certificate of compliance as a condition of approval issued pursuant to Section 5.3 or 5.4. Should the Board issue such a condition, it shall be unlawful to use or to occupy said land or structure, or part thereof, until a certificate of compliance is issued by the Administrative Officer stating that the proposed use of the structure or land conforms to the conditions and/or requirements of any zoning permit issued in accordance with these regulations.

- (1) An application for a certificate of compliance shall be provided with a zoning permit issued by the Administrative Officer. The applicant shall submit the completed application upon completion of permitted improvements, but prior to the occupancy of the land or structure.
- (2) Within 10 working days of receipt of the application for a certificate of compliance, the Administrative Officer will inspect the premises to ensure that all work was completed in conformance with the permit, including all applicable conditions of the Development Review Board. If the Administrative Officer fails to either deny or grant the certificate of compliance within 10 working days of the submission of an application, the certificate of compliance shall be deemed to be issued on the 11th day.

Section 6.3 Appeals

(A) **Decisions of the Administrative Officer.** In accordance with the Act [§4465], the applicant or any other **interested person** may appeal a decision or act of the Administrative Officer by filing a notice of appeal with the Secretary of the Board of Adjustment, or the Town Clerk if no Secretary has been elected, within 15 days of the date of such decision or act.

- (1) Pursuant to the Act [§4468], the Development Review Board shall hold a public hearing on a notice of appeal within 60 days of the date of its filing. The Board shall give public notice of the hearing under Section 6.7(D), and mail a copy of the hearing notice to the appellant at least 15 days prior to the hearing date.
- (2) A decision on appeal, to include written findings of fact, shall be rendered within 45 days after hearing completion, pursuant to the Act [§4468]. The Development Review Board may reject an appeal without hearing, and render a decision, which shall include written findings of fact, within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on substantially or materially the same facts, by or on behalf of the appellant. Copies of the decision shall be mailed to the appellant and hearing participants, and filed with the Administrative Officer and Town Clerk.

(B) Notice of Appeal of Administrative Officer

Decisions. Pursuant to the Act [§4466], a notice of appeal of an action of the Administrative Officer shall be in writing and include:

- (1) the name and address of the appellant;
- (2) a brief description of the property with respect to which the appeal is taken;
- (3) a reference to applicable bylaw provisions;
- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations;
- (5) the alleged grounds why such relief is believed proper under the circumstances; and
- (6) any request for a stay of enforcement which may be granted or denied by the board of adjustment in accordance with the Act [§4466].

Interested Person: in addition to the applicant, the definition of an interested person under the Act [§4465(b)] includes the following:

- The Town of Elmore or an adjoining municipality.
- A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or regulations of the town.
- Any ten (10) persons who may be a combination of voters or real property owners within the town who, by signed petition to the Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in accord with the policies, purposes or terms of the plan or regulations of the town. The petition shall designate one person to serve as representative on all matters related to the appeal.
- Any department or administrative subdivision of the State owning property or any interest in property within the town or an adjoining municipality, and the Vermont Agency of Commerce and Community Development.

(C) Decisions of the Development Review Board. Any interested person who has participated in a regulatory proceeding under these bylaws may appeal a decision of the Development Review Board within 30 days of the date of such decision to the Vermont Environmental Court, in accordance with the Act [§4471]. For the purposes of these regulations, participation in a regulatory proceeding shall include offering, through oral or written testimony, evidence or a statement of concern related to the subject of the hearing.

(D) Notice of Appeal of Development Review Board Decisions. The notice of appeal of a decision of the Development review Board shall be filed by certified mailing, with fees, to the Vermont

Environmental Court and by mailing a copy to the Administrative Officer who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Section 6.4 Variances & Setback Waivers

(A) **Setback Waivers.** Notwithstanding the minimum setback standards for front yards (setback from streetline) and side and rear yards (setback from parcel boundaries) for various zoning districts set forth in Article II, the Development Review Board may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 5.3 and subject to the following:

- (1) The structure associated with the waiver request was legally in existence prior to April 11, 2000;
- (2) The Board may allow for a reduction of the front, side and rear setback, providing the reduction will not adversely impact the use and enjoyment of adjacent parcels, and the reduced setback complies all conditional use standards set forth in Section 5.3; and
- (3) The waiver of the setback standard is for an addition or expansion of an existing structure; is generally consistent with the predominant building setbacks within the surrounding area of the parcel; and does not result in a reduction of the setback standard for the district in which the parcel is located by greater than 30%.

(B) **Variances.** The Development Review Board shall hear and decide upon requests for variances pursuant to the Act [§4468] and appeal procedures under Section 6.3. **The Board may grant a variance, and render a decision in favor of the appellant, only if *all* of the following facts are found and the findings are specified in its decision:**

- (1) that there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
- (2) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) that the 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, 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
- (5) that the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

(C) **Variances Involving Renewable Energy Facilities.** On an appeal for a variance from the provisions of this bylaw that is requested for a structure that is primarily a renewable energy resource

structure, the Board may grant such variance only if it finds that all of the facts listed in §4468(b) of the Act are found in the affirmative and specified in its decision.

(D) Variances within the Flood Hazard Overlay District. Variances within the Flood Hazard Area Overlay District shall be granted by the Development Review Board only:

- (1) in accordance with the Act [§4468, §4412(h)] and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, or the National Flood Insurance Program regulations;
- (2) upon a determination that during the base flood discharge the variance will not result in increased flood levels; and
- (3) upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(D) In granting a variance, the Development Review Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of this bylaw and the municipal plan currently in effect. In no case shall the Development Review Board grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.

Section 6.5 Exemptions

No zoning permit shall be required for the following:

(A) Any building for which construction began prior to the effective date of these regulations, provided that such construction is completed within one (1) year of the effective date.

(B) Normal maintenance and repair of an existing structure that does not result in any change to the exterior dimensions or height of the structure, or a change in use.

(C) Accepted agricultural and best management practices (AAPs, BMPs), including farm structures, as defined by the Commissioner of Agriculture, Food and Markets in accordance with the Act [§4413(d)]; however written notification, including a sketch plan of the structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Administrative Officer prior to any construction as required under the AAPs.

(D) Accepted forest management practices (AMPs) for silviculture as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act [§4413(d)].

(E) Residential entry stairs, handicap ramps, and fences less than six (6) feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibility or site distances for vehicular traffic. Such entry stairs, handicap ramps and fences shall also comply with the special district standards related to the Village District (Table 2.1) and Shoreland District (Table 2.5).

(F) Accessory structures which do not exceed eighty (80) square feet in floor area or ten (10) feet in height and are located at least five (5) feet from all property lines.

(G) Garage sales, yard sales and auctions not exceeding three (3) consecutive days, nor more than eight (8) days per calendar year, which do not cause unsafe traffic conditions or parking problems.

(H) Accessory structures that do not exceed eighty (80) square feet in floor area or ten (10) feet in height and are located at least ten (10) feet from all property lines, and forty (40) feet from lake Elmore and one hundred (100) feet from Elmore and Hardwood Ponds.

(I) Facilities operated by public utilities, including power generation and transmission facilities, which are regulated by the Vermont Public Service Board [30 V.S.A. §248]; however such facilities shall be in conformance with the Elmore Town Plan.

Section 6.6 Violations and Enforcement

(A) **Violations.** The commencement or continuation of any land development or use which is not in conformance with the provisions of this bylaw shall constitute a violation. All violations shall be pursued in accordance with the Act [§4451, §4452]. The Administrative Officer shall initiate appropriate action in the name of the municipality to enforce the provisions of this bylaw. All fines imposed and collected for the violation of this bylaw shall be paid over to the municipality.

(B) **Notice of Violation.** Pursuant to the Act [§4451], no action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the seven-day notice period and within the next succeeding twelve (12) months.

(C) **Limitations on Enforcement.** The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454].

Section 6.7 Municipal Administrative Requirements

(A) **Appointments.** The following appointments shall be made in association with the administration and enforcement of this bylaw:

- (1) **Administrative Officer.** The Selectboard shall appoint a Zoning Administrator, from nominations submitted by the Planning Commission, for a term of three (3) years in accordance with the Act [§ 4448]. In the absence of the Administrative Officer, or in the event of a potential conflict of interest, an Acting Administrative Officer may be appointed by the Selectboard, from nominations submitted by the Planning Commission, for a specified term. The Administrative Officer shall administer this bylaw literally, and shall not have the power to permit any development that is not in conformance with the provisions of this bylaw.
- (2) **Development Review Board.** A Development Review Board shall be appointed by the Select Board in accordance with the Act [§4460]. The Board shall adopt rules of procedure, and rules of ethics with respect to conflicts of interest, to guide its official conduct in accordance with the requirements of the Act [§4462] and Vermont's Open Meeting Law [1 V.S.A., §310-314]; and shall have powers and duties as set forth in the Act to administer the provisions of this bylaw, including but not limited to the hearing of appeals of decisions or acts of the Administrative Officer, appeals for variances from these regulations, and applications for conditional use and planned residential developments.

(3) **Planning Commission.** A Planning Commission shall be appointed by the Select Board in accordance with the Act [§4321, §4323.] The Planning Commission shall have non-regulatory powers and duties as set forth in the Act [§4325,] including the drafting of amendments to this bylaw.

(B) **Fee Schedule.** The Select Board shall establish a schedule of fees to be charged in administering these regulations, with the intent of covering the Town's administrative costs.

(C) **Hearing Notice Requirements.** In accordance with the Act [§4464(a)], a warned public hearing shall be required for conditional use review (Section 5.3), appeals and variances (Sections 6.3 & 6.4). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (1) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town,
- (2) posting of the same information in three (3) or more public places within the municipality, including posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- (3) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
- (4) for hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.

(B) The applicant or appellant shall be required to bear the cost of public warning, and the cost and responsibility of notifying adjoining landowners, as required under Subsections (C)(1) and (C)(2). The applicant shall be required to demonstrate proof of delivery to adjoining landowners, as determined from the most recent municipal grand list, either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

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

(D) Public hearings concerning proposed amendments to these regulations shall be noticed and warned in accordance with the Act [§§ 4441, 4444].

(D) **Recording Requirements.**

- (1) Pursuant to the Act [§4449(c)], within thirty (30) days after a municipal permit, including but not limited to a zoning permit and associated conditional use and/or variance approvals has become final, or within thirty (30) days of the issuance of a notice of violation, the Administrative Officer shall deliver the notice of violation, or memorandum or notice of recording, to the Town Clerk for

recording as provided in statute [24 V.S.A. subsections 1154(a) or (b)]. The applicant may be charged for the cost of recording fees.

- (2) For development within the Flood Hazard Area Overlay District, the Administrative Officer shall maintain a record of:

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