



# TWO RIVERS-OTTAUQUECHEE

William B. Emmons, III, Chairman  
Peter G. Gregory, AICP, Executive Director

## REGIONAL COMMISSION

Date: May 7, 2013

From: Kevin Geiger, Senior Planner

To: Planning Commission Chairs for the Towns of Hartford, Woodstock, Windsor, West Windsor; **ACCD**; TRORC

Re: Public Hearing Notice

Be advised that the Hartland Planning Commission will hold a duly warned hearing on a draft unified bylaw on May 23 at 7 PM at Damon Hall in Hartland. Your comments on the draft are most welcome.

A hearing notice, report form, and a copy of the draft are enclosed.



cc Jay Boeri, Charles Jeffries, Hartland Town Clerk, file

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# **PUBLIC HEARING NOTICE**

**Thursday May 23, 2013**

**7:00 pm at Damon Hall in Hartland  
to review the proposed Land Use Bylaw  
by the Hartland Planning Commission**

Notice is hereby given that there will be a public hearing of the Hartland Planning Commission at the above time and place to review the draft Hartland Land Use Bylaw and to receive comments. All residents are encouraged to attend. The proposed amendments apply to all lands in the Town of Hartland.

The purpose of the draft is to regulate certain land uses and subdivision through a unified bylaw that combines zoning and subdivision in order to promote beneficial use of property and minimize negative impacts. The Planning Commission encourages all residents and operators of businesses to attend the hearing. We welcome their participation and comments. The following are the chapter headings:

ARTICLE 1 - GENERAL PROVISIONS  
ARTICLE 2 - APPLICATION OF THIS BYLAW  
ARTICLE 3 - LAND USE DISTRICTS AND THEIR USES  
ARTICLE 4 - ADMINISTRATIVE PERMITS  
ARTICLE 5 - CONDITIONAL USE APPROVAL  
ARTICLE 6 - SUBDIVISION  
ARTICLE 7 - SITE DEVELOPMENT PLAN APPROVAL  
ARTICLE 8 - NON-CONFORMITIES, WAIVERS, AND VARIANCES  
ARTICLE 9 - ADMINISTRATION  
ARTICLE 10 - DEFINITIONS

Full copies of the draft bylaw and map are available with the Town Clerk. For those unable to attend the hearing, comments may also be mailed to the Hartland Planning Commission at PO Box 349, Hartland, VT 05048. A report on how these changes fit with the current town plan is also available.

Hartland Planning Commission



**Planning Commission Reporting Form for Municipal Bylaw Amendments**  
**Hartland Draft Land Use Bylaw for 5/23/13 Planning Commission Hearing**

This report is in accordance with 24 V.S.A. §4441(c) which states:

*“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments.... The report shall provide(:*

*(A) brief explanation of the proposed bylaw, amendment, or repeal and ....include a statement of purpose as required for notice under §4444 of this title,*

The proposed draft is a unified bylaw where no local land use regulations outside of flood regulations exist.

The purposes of the bylaw as listed in it are:

- a. To conserve the present development pattern and rural character of the town;
- b. To provide for the housing needs of the community, as set forth in the town plan;
- c. To promote economically viable practices for agriculture and forestry;
- d. To provide for orderly growth in the town's villages by planning for mixed land uses and public facilities;
- e. To conserve important natural areas, historic places, unique habitats, and open spaces; and
- f. To make land use decisions on a local level consistent with the spirit of state environmental rules.

*(A)nd shall include findings regarding how the proposal:*

1. *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*

The proposed draft zoning and subdivision implements the town plan by establishing regulations in conformance with the plan. The bylaw will have little effect on housing, as there is plenty of land available and housing in permitted in most of the town.

2. *Is compatible with the proposed future land uses and densities of the municipal plan:*

The bylaw is based on the future land use map and the purposes of the districts in the plan

3. *Carries out, as applicable, any specific proposals for any planned community facilities.”*

There are no specific proposals for such facilities.



TOWN  
OF  
HARTLAND

Draft  
LAND USE BYLAWS  
For Planning Commission Hearing

These Bylaws were developed with the assistance of the  
Two Rivers-Ottawquechee Regional Commission  
[www.trorc.org](http://www.trorc.org)

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## **ARTICLE 1 - GENERAL PROVISIONS**

**1.1 Enactment and Effective Date.** In accordance with the Vermont Planning and Development Act, hereinafter referred to as the "Act," 24 V.S.A. Chapter 117, the Town of Hartland hereby establishes zoning and subdivision regulations, which zoning and subdivision regulations shall become effective 21 days following adoption.

**1.2 Existing Land Uses - No Permit Needed.** No Administrative Permit or other approval shall be required for any land use or development which has been lawfully established or in good faith initiated prior to the adoption of these Bylaws, provided that any construction initiated in connection with such land use or development is completed and a certificate of occupancy is issued within one (1) year from the date of said adoption. The provisions contained in this Section 1.2 shall further apply to any subdivision which: (a) has been created and has received a state subdivision approval pursuant to Vermont's Environmental Protection Regulations; and (b) has duly filed a plot plan in the Town of Hartland Land Records.

**1.3 Title.** These Bylaws shall be known and cited as the Town of Hartland Land Use Bylaws.

**1.4 Purposes of These Bylaws.** It is the intent and purpose of the Town of Hartland Land Use Bylaws to implement the Town of Hartland Town Plan, to further the purposes established in Section 4302 of the Act, and:

- a. To conserve the present development pattern and rural character of the town;
- b. To provide for the housing needs of the community, as set forth in the town plan;
- c. To promote economically viable practices for agriculture and forestry;
- d. To provide for orderly growth in the town's villages by planning for mixed land uses and public facilities;
- e. To conserve important natural areas, historic places, unique habitats, and open spaces; and
- f. To make land use decisions on a local level consistent with the spirit of state environmental rules.

**1.5 Land Use Administrator (LUA).** In accordance with Section 4448 of the Act, a LUA shall be nominated by the Planning Commission and appointed by the Selectboard to administer these Bylaws. Consistent with Section 4448(c) of the Act, the LUA shall provide an applicant with forms required to obtain any municipal permits or other municipal authorizations required to initiate land development, including informing the applicant of any other municipal permits or authorizations which may be required, and informing the applicant to contact the regional permit specialist employed by the Agency of Natural Resources in order to assure timely action on any related state permits. Notwithstanding the above, the applicant shall retain the obligation to identify, apply for, and obtain all necessary municipal and state development permits. The LUA shall also

process applications, maintain records, issue and post permits, and perform such other tasks as may be necessary to carry out the provisions of these Bylaws and the Act.

**1.6 Development Review Board (DRB).** There is hereby established a Development Review Board, some or all of whose members may also be members of the Planning Commission. The Development Review Board shall consist of not less than five (5), nor more than nine (9), members appointed by the Selectboard for staggered three (3)-year terms. Any appointment to fill a vacancy shall be for the unexpired term. Appointments to the Development Review Board shall be pursuant to and in conformance with Section 4460 of the Act. The Development Review Board shall be charged with the proper interpretation of these Bylaws, and shall perform the functions set forth at Section 4460(e) of the Act, including, but not limited to, the following:

- a. To hear and rule on appeals concerning any order, requirement, decision, or determination made by the LUA.
- b. To hear and approve or deny a request for a waiver, variance, change to a non-conforming use, Conditional Use Approval, or request for a Subdivision approval.

**1.7 Interpretation.** In their interpretation and application, the provisions of these Bylaws shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare of the citizens of the Town of Hartland. In the event these Bylaws impose a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of these Bylaws shall control.

**1.8 Severability.** If any provision of these Bylaws is held to be invalid, such holding shall not affect the validity of the Bylaws as a whole or any part thereof other than the part held to be invalid.

## **ARTICLE 2 - APPLICATION OF THIS BYLAW**

**2.1 Land Development Approval.** Except as set forth in **Section 2.2**, no land development as defined at Section 4303(10) of the Act shall be commenced unless and until an Administrative Permit has been issued by the LUA in conformance with these Bylaws, including, but not limited to, the following :

- a. the division of a parcel of land into two (2) or more parcels;
- b. the combining of parcels of land;
- c. the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure;
- d. engaging in any mining or commercial extraction activities;
- e. the construction of a road or utility; and
- f. any change in the use of any building or other structure, or land.

**2.2 Exemptions.** The following construction activities and/or land uses shall be exempt from review under these Bylaws and no Administrative Permit for said construction activities or land uses shall be required. Any development, including those exempted

below, may need other local, state or federal permits, including a permit under the Town's Flood Hazard Regulations if located in designated flood areas:

**2.2.1** Normal maintenance, repair, upgrading, or remodeling of a building or structure that neither increases the building's or structure's footprint nor involves a change in use;

**2.2.2** The construction of one accessory structure containing not more than 750 square feet on a residential lot existing prior to the adoption of these Bylaws, so long as said accessory structure is in compliance with all applicable setbacks;

**2.2.3** The construction of one addition of not more than 750 square feet to an existing structure so long as said addition complies with all applicable setbacks and the structure was in existence prior to the adoption of these Bylaws;

**2.2.4** The replacement or repair of an existing structure destroyed or damaged by fire or other disaster provided that the structure as repaired or replaced is not greater in any dimensions and is within the original footprint of the structure which was damaged or destroyed. This provision shall apply so long as the replacement or repair is initiated within two (2) years of the date of any said destruction or damage and is completed within one (1) year following the date reconstruction is initiated;

**2.2.5** The conducting of Accepted Agricultural Practices (AAP's), or Accepted Management Practices (AMP's) for forestry and silviculture, including the construction of farm structures as such practices are defined by the Secretary of Agriculture or Commissioner of Forests, Parks & Recreation, respectively, under Subsections 1021(f) and 1259(f) of Title 10 and Section 4810 of Title 6. Any person intending to construct a farm structure as that term is defined at Section 4413(d)(1) of the Act shall notify the Land Use Administrator and shall abide by the setbacks in that district, or the site-specific setbacks as approved by the Secretary of Agriculture in accordance with the provisions of Section 4413(d) of the Act;

**2.2.6** The construction of one seasonal cabin or camp on a lot in the Rural Residential or Rural district, which lot was in existence prior to the adoption of these Bylaws and where the cabin or camp has no running water and contains not more than 750 square feet of floor area, so long as said seasonal cabin is in compliance with all applicable setbacks;

**2.2.7** The placement on a lot of a registered mobile home, camper or travel trailer used for temporary habitation (not exceeding six (6) consecutive months), provided that they are placed in compliance with all required setbacks and conform to all other applicable town and state ordinances, rules, regulations, and requirements regulating said vehicles;

**2.2.8** The construction of a single on-premises, non-illuminated outdoor sign no larger than sixteen (16) square feet so long as said sign complies with all applicable setbacks;

**2.2.9** The construction of a pond no greater than one (1) acre in size so long as said pond is not constructed in a stream or Class I or Class II Wetland as those wetlands are defined in the State of Vermont Wetland Regulations;

**2.2.10** The construction of electric generating plants and transmission facilities or telecommunications facilities, which are otherwise regulated under 30 V.S.A. Section 248;

**2.2.11** The construction or placement of antennae used to receive or transmit communications signals if the aggregate area of the largest faces of the antennae is not more than eight (8) square feet, and if the antennae is attached to a mast support on an existing building, where any said mast support does not extend more than twelve (12) feet above the roof of that portion of the building to which the mast is attached.

**2.2.12** The placement of solar panels on a structure.

**2.2.13** De minimus structures or uses not specifically mentioned in this Section 2.2 that are:

- a. incidental and customary to the use on the lot;
- b. in conformance with the purposes of the district; and
- c. so temporary or minimal that their impact on the public, as measured by the standards set forth in Section 5.7, is such that regulation of them is not required to protect health, safety, welfare or environment. The LUA is empowered to make such determinations when needed, and appeals of these decisions shall be made to the DRB.

### **ARTICLE 3 - LAND USE DISTRICTS AND THEIR USES**

**3.1 Establishment of Districts.** For the purpose of these Bylaws, the following Land Use Districts are hereby established within the Town.

Village District	V
US 4/VT 12 Junction	RT4/RT12
I-91 Interchange Area	I-91 INT
Industrial District	IND
Rural Residential District	RR
River Overlay District	RO
Rural District	R

**3.2 Boundaries and Purposes of Districts.** Districts are created to further the purposes established for them in the Town Plan. The areas and boundaries of the Districts are

established as described below and shown on the Official Land Use Map for the Town of Hartland signed by the Selectboard upon adoption and stamped with the seal of the Town Clerk. The Official Land Use Map is hereby incorporated into and made a part of these Bylaws. This map shall remain on file with the town. The official Land Use map shall control any disputes as to the location of any Zoning Districts.

**3.2.1** Village District. The Village District includes two (2) areas, one (1) in North Hartland, and an area that combines the Three Corners and Four Corners.

**3.2.2** US 4/VT 12 Junction District. The US 4/VT 12 Junction District is located at the junction of US 4 and VT 12.

**3.2.3** I-91 Interchange Area District. The I-91 Interchange Area District is in the southeast corner of town and encompasses land within 500 feet north of the centerline of US 5 east of the I-91 Exit 9 interchange to the town line.

**3.2.4** Industrial District. There are three (3) Industrial Districts, one (1) just east of I-91 near Three Corners, and two (2) in North Hartland.

**3.2.5** Rural Residential District. The Rural Residential District is located west of I-91 and north and south of the Village District that encompasses the Three Corners and Four Corners.

**3.2.6** River Overlay District. The River Overlay District covers land within 200 feet of the top of bank of the Connecticut River and the Ottauquechee River from the North Hartland reservoir to the confluence with the Connecticut.

**3.2.7** Rural District. The Rural District covers the vast majority of Hartland, encompassing all lands not included in any district above.

**3.3 Interpretation of District Boundaries.** If uncertainty exists with respect to the boundary of any district, the location of such boundary shall first be determined by the LUA. If the LUA cannot make such a determination, or if the applicant is not satisfied with the decision, the matter may be appealed to the Development Review Board. The Development Review Board in any said appeal may require the applicant to submit additional information. As guidance for use in the determination of district boundaries, district boundaries shall normally be conterminous with property lines, centerlines of roads, centerlines of water courses, or specific distances from such, unless otherwise noted.

A lot located in two (2) districts shall have the portion of land in each district governed by the rules of that district, provided that there is sufficient acreage in such district to allow for a conforming use. When lots only have a complying portion in one (1) district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being in the district with the majority of the lot acreage.

**3.4 General Standards.** The following minimum standards shall apply to all uses in all districts:

- a. Emergency access: All new roads, driveways or access points shall be designed to comply with applicable Town of Hartland Road Specifications.
- b. All principal structures shall have at least two (2) designated parking spaces located outside the town road right-of-way and traveled portion of any access driveway. Multi-unit dwellings shall provide either two (2) spaces per unit on site, or one (1) space on site plus sufficient area on the site to construct a second space, and/or an applicant shall demonstrate that it has received an irrevocable license or easement to locate a space on adjacent lands.
- c. No structures shall be allowed within 50 feet of the top of the bank of any designated streams, or water courses except those structures which by their nature must be located near streams or water courses, such as piers, docks, culverts, bridges, water supplies, etc. No ground disturbance shall be allowed within 35 feet of the bank of any said stream or water course excepting ground disturbance incidental to the construction of such structures, or when incidental to permitted bank stabilization work. This provision shall apply to the following perennial streams and water courses;
  - i. Connecticut River,
  - ii. Ottauquechee River,
  - iii. Babcock Brook north from Barron Hill Road to the Ottauquechee River,
  - iv. Fulling Brook east of its intersections with Draper Road and Brothers Road to the Ottauquechee River,
  - v. Harlow Brook east of the Quechee Road to the Ottauquechee River,
  - vi. Alder Meadow Brook south of the intersection of Cobb Hill Road and VT 12 to Lulls Brook,
  - vii. McArthur Brook southeast of Shute Road to the Connecticut River,
  - viii. Lulls Brook from the intersection of the Jenneville Road and Reeves Road to the Connecticut River,
  - ix. Weed Brook from its second crossing of Weed Road to Lulls Brook, and
  - x. Densmore Brook southeast from the first crossing at the stone culvert to Lulls Brook.
- d. All new exterior lighting proposed to be located on or in connection with any development receiving a permit under these Bylaws shall use incandescent lights of 75 watts or less (or equivalent illumination by other technology) or be shielded so the light source is not directly visible from any adjacent property or town highways. No private building facades may be lit. Non-residential lighting shall be directed downward at least 15 degrees below horizontal, and signs may only be lit during the hours of operation and with approval of the Development Review Board.
- e. The height of all structures is limited to 40 feet as measured from any point on the final finished grade abutting the structure to the highest point on the structure (excluding cupolas, chimneys and antennae), except agricultural structures, telecommunications towers or antennae, and wind turbines which shall be limited to 90 feet unless otherwise specified in this Bylaw or exempted by law.

- f. No road, drive or access right-of-way shall exceed a grade of 12%, and no ground disturbance on a lot shall exceed 10,000 square feet on any land with an actual slope over 25%. Please see the Advisory Map that shows areas likely to contain slopes over 25%.
- g. Except as set forth in **Section 3.6**, only one (1) principal use or one (1) principal structure is allowed per lot, except as follows:
  - i. A mixed use building is allowed in the Village and Commercial Districts;
  - ii. Up to three (3) single family residences are allowed on the same lot in the Rural and Rural Residential Districts, so long as each could conform to the district regulations and is able to be subdivided on a conforming lot;

**3.5 Dimensional Standards, Permitted and Conditional Uses by District.** Various uses requiring an Administrative Permit or Conditional Use Approval in addition to an administrative permit are listed below for each district. If a use is not listed, or is exempted under **Section 2.2**, it is prohibited. Dimensional requirements must be met unless a waiver or variance is granted. No use variances shall be granted.

### **3.5.1 Village District**

#### **3.5.1.1 Land, Area, and Structural Requirements:**

- a. Minimum Lot Area: .5 acres
- b. Minimum Lot Frontage/Width: 50 feet
- c. Minimum Front Setback: 40 feet, but may be reduced to no less than 20 feet by the LUA to conform with setbacks for existing structures on any adjacent lot.
- d. Minimum Side Setback: 10 feet, but may be reduced to five (5) feet by the LUA when agreed to by the adjoining landowner(s).
- e. Minimum Rear Setback: 10 feet
- f. Maximum Lot Coverage: 70%

#### **3.5.1.2 Administrative Permit Only:**

- a. Single and two-unit dwellings
- b. Home occupation
- c. Small child care facility (10 or less children)
- d. Residential group home (10 or less residents)
- e. Accessory dwelling unit
- f. Accessory structures on lots created prior to the adoption of these Bylaws, where the accessory structure has a footprint over 750 square feet and up to 2,000 square feet, and the lot is used primarily for residential purposes.

#### **3.5.1.3 Conditional Uses (Conditional Use Approval Needed Prior to Administrative Permit per Section 5.1 and 5.7):**

- a. Multiple-unit dwelling
- b. Office
- c. Service business

- d. Retail
- e. Governmental functions
- f. Mobile home park
- g. Restaurant
- h. Other commercial
- h. Accessory structures with a footprint over 2,000 square feet on lots created prior to the adoption of these Bylaws and the lot is used primarily for residential purposes.

**3.5.1.4 Subdivision Approval Needed Prior to Administrative Permit:**

- a. Creation of any new lot

**3.5.2 US 4/VT 12 Junction District/I-91 Interchange Area Districts**

**3.5.2.1 Land, Area, and Structural Requirements:**

- a. Minimum Lot Area: 1.5 acres
- b. Minimum Lot Frontage/Width: 200 feet
- c. Minimum Front Setback: 40 feet
- d. Minimum Side Setback: 20 feet
- e. Minimum Rear Setback: 20 feet
- f. Maximum Lot Coverage: 50%

**3.5.2.2 Administrative Permit Only:**

- a. Single and two unit dwellings
- b. Accessory structures on lots created prior to the adoption of these Bylaws when the accessory structure has a footprint over 750 square feet and up to 2000 square feet and the lot is used primarily for residential purposes.
- c. Small childcare facility
- d. Home occupation
- e. Residential group home

**3.5.2.3 Conditional Uses (Condition Use Approval Needed Prior to Administrative Permit per Section 5.1 and 5.7):**

- a. Home business
- b. Storage/Warehouse
- c. Light industrial
- d. Residential other than single and two unit dwellings
- e. Accessory structures with a footprint over 2,000 square feet on lots created prior to the adoption of these Bylaws and the lot is used primarily for residential purposes.
- f. Services
- g. Outdoor Recreation
- h. Restaurant
- i. Veterinary Clinic
- j. Building Supply

**3.5.2.4 Subdivision Approval Needed Prior to Administrative Permit:**

- a. Creation of any new lot

**3.5.3 Industrial District**

**3.5.3.1 Land, Area, and Structural Requirements:**

- a. Minimum Lot Area: 1.5 acres
- b. Minimum Lot Frontage/Width: 200 feet
- c. Minimum Front Setback: 40 feet
- d. Minimum Side Setback: 20 feet
- e. Minimum Rear Setback: 20 feet
- f. Maximum Lot Coverage: 50%, but may be waived by the Development Review Board and coverage of up to 70% may be approved if all required state stormwater permits have been granted for the development.

**3.5.3.2 Administrative Permit Only:**

- a. single and two unit dwellings
- b. Accessory structures on lots created prior to the adoption of these Bylaws where the accessory structure has a footprint over 750 square feet and up to 2000 square feet and the lot is used primarily for residential purposes.
- c. Small childcare facility
- d. Home occupation
- e. Residential group home

**3.5.3.3 Conditional Uses (Conditional Use Approval Needed Prior to Administrative Permit per Section 5.1 and 5.7):**

- a. Home business
- b. Industrial
- c. Earth extraction
- d. Accessory structures with a footprint over 2,000 square feet on lots created prior to the adoption of these Bylaws and the lot is used primarily for residential purposes.

**3.5.3.4 Subdivision Approval Needed Prior to Administrative Permit:**

- a. Creation of any new lot

**3.5.4 Rural Residential District**

**3.5.4.5 Land, Area, and Structural Requirements:**

- a. Minimum Lot Area: Five (5) acres. The five (5) acre minimum lot area may be reduced to not less than one (1) acre pursuant to Section 3.6.

- b. Minimum Lot Frontage/Width: 150 feet
- c. Minimum Front Setback: 60 feet
- d. Minimum Side Setback: 30 feet
- e. Minimum Rear Setback: 30 feet
- f. Lot Configuration: The ratio of average frontage to depth shall be less than 1:2.5

**3.5.4.6 Administrative Permit Only (for development less than 800 feet from a town or state road, or located within an existing structure):**

- a. Single and two-unit dwellings
- b. Home occupation
- c. Small child care facility (10 or less children)
- d. Residential group home (10 or less residents)
- e. Accessory structures on lots created prior to the adoption of these Bylaws where the accessory structure has a footprint over 750 square feet and up to 2000 square feet and the lot is used primarily for residential purposes.
- f. Exempted subdivision or subdivision with Subdivision Approval

**3.5.4.7 Conditional Uses (Conditional Use Approval Needed Prior to Administrative Permit per Section 5.1 and 5.7):**

- a. Home business
- b. Large Residential Structure
- c. Multiple-unit dwelling
- d. Small enterprise
- e. Accessory structures with a footprint over 2,000 square feet on lots created prior to the adoption of these Bylaws when the lot is used primarily for residential purposes.
- f. In addition to the uses described above, any development more than 800 feet from a town or state road shall require a conditional use approval but must only comply with conditional use review standards under Section 5.1 and Sections 5.7.1.1 (surface water, including wetlands), 5.7.1.6 (scenic resources), 5.7.1.8 (historic resources), 5.7.1.9 (primary agricultural and forest soils), 5.7.1.10 (emergency services), 5.7.1.11 (stormwater and erosion control), 5.7.1.12 (ancient roads and trails), 5.7.1.16 (character of land and site preservation).

**3.5.4.8 Subdivision Approval Needed Prior to Administrative Permit:**

- a. The creation of more than two (2) lots from a lot existing on the date of adoption of this Bylaw. See section 6.3.d.

**3.5.5 River Overlay District**

**3.5.5.1 Land, Area, and Structural Requirements: Same as in underlying district.**

**3.5.5.2 Administrative Permit Only:**

- a. Accessory dwelling unit to an existing dwelling
- b. Home occupation in an existing dwelling
- c. Accessory structures on lots created prior to the adoption of these Bylaws where the accessory structure has a footprint over 750 square feet and up to 2,000 square feet and the lot is used primarily for residential purposes.

**3.5.5.3 Conditional Uses (Conditional Use Approval Needed Prior to Administrative Permit per Section 5.1 and 5.7):**

- a. Outdoor Recreation
- b. Accessory structures with a footprint over 2,000 square feet on residential lots created prior to the adoption of these Bylaws.

**3.5.6 Rural District**

**3.5.6.1 Land, Area, and Structural Requirements:**

- a. Minimum Lot Area: Ten (10) acres. The 10 (ten) acre minimum lot area may be reduced to not less than one (1) acre pursuant to **Section 3.6.**
- b. Minimum Lot Frontage/Width: 150 feet
- c. Minimum Front Setback: 60 feet
- d. Minimum Side Setback: 40 feet
- e. Minimum Rear Setback: 40 feet
- f. Lot Configuration (Footprint): The ratio of average frontage to depth shall be less than 1:2.5

**3.5.6.2 Administrative Permit Only:**

- a. Single and two-unit dwellings
- b. Accessory dwelling unit
- c. Home occupation
- d. Accessory structures on residential lots created prior to the adoption of these Bylaws where the accessory structure has a footprint over 750 square feet and up to 2,000 square feet.

**3.5.6.3 Conditional Uses (Conditional Use Approval Needed Prior to Administrative Permit per Section 5.1 and 5.7):**

- a. Small Enterprise
- b. Home Business
- c. Outdoor Recreation
- d. Large Residential Structure
- e. All new non-residential permitted uses shall comply with sections 5.12.
- f. In addition to the uses described above, any development on lands more than eight hundred (800) feet distant from town roads road shall

require a conditional use approval but must only comply with conditional use review standards under Section 5.1 and Sections 5.7.1.1 (surface water, including wetlands), 5.7.1.6 (scenic resources), 5.7.1.8 (historic resources), 5.7.1.9 (primary agricultural and forest soils), 5.7.1.10 (emergency services), 5.7.1.11 (stormwater and erosion control), 5.7.1.12 (ancient roads and trails), 5.7.1.16 (character of land and site preservation), and Section 5.12.

g. Accessory structures with a footprint over 2,000 square feet on residential lots created prior to the adoption of these Bylaws.

**3.5.6.4 Subdivision Approval Needed Prior to Administrative Permit:**

a. The creation of more than two (2) lots from a lot existing on the date of adoption of this Bylaw.

**3.6 Waiver Standards**

**3.6.1** In all districts, waivers may be granted by the LUA without a hearing for:

- a. reductions in front or side setbacks as necessary to allow for disability access;
- b. reductions in side setbacks to allow for necessary life safety improvements required by state code.

**3.6.2** In all districts, waivers may be granted by the Development Review Board, with regard only to setback and density requirements, so long as the waiver will not result in:

- a. a greater than 50% decrease in any setback; OR
- b. a greater than 25% increase in density;

AND at least two (2) of the following four (4) criteria are met:

- a. The proposed development conforms to the development patterns of the district with regard to existing buildings' setbacks and density;
- b. The proposed development has been designed to cluster development so as to more effectively preserve open land, forest land, or scenic vistas;
- c. The proposed development will result in permanently affordable housing units;
- d. There is insufficient setback for residential development under **Section 3.5**.

**3.6.3** In the Rural District only, waivers may be granted by the LUA to reduce minimum lot size to no less than one (1) acre so long as the density does not exceed one principal building per ten acres. Notwithstanding the above, on a lot which contains more than 11 acres, but less than 20 acres, two principal buildings are allowed when the ownership and configuration of the lot to be developed are the same as existed as of the date of the adoption of these Bylaws.

Lot size may be reduced to no less than one (1) acre and density may be increased to no more than one (1) principal residential building per five (5) acres in the rural district by the Development Review Board for lots that border VT 12 or the Hartland Quechee Road. No such lot size reduction or density increase may be granted

unless the Development Review Board finds that the lot size reduction or increased density will not result in a decrease in traffic safety and will more effectively preserve undeveloped land, prime or statewide agricultural soils, or views of scenic vistas from public roads.

**3.6.4** In the Rural Residential District only, when the ownership and configuration of the lot to be developed are the same as existed as of the date of the adoption of these Bylaws, waivers may be granted by the LUA to reduce minimum lot size to no less than one (1) acre so long as the density of principal buildings on all lands involved does not exceed one principal building per five acres. Notwithstanding the above, where a lot contains six (6) acres or more, but less than ten (10) acres, two (2) principal buildings are allowed

#### **ARTICLE 4 - ADMINISTRATIVE PERMITS**

**4.1 Administrative Permits:** No land development or change in use may be commenced within the area affected by these Bylaws without an Administrative Permit being issued by the LUA, unless the development has been specifically exempted by state or federal law, or is exempted in these Bylaws from requiring a permit.

**4.2 Application for Permit.** An application for an Administrative Permit shall be filed with the LUA on forms approved by the Development Review Board and accompanied by fees set by the Selectboard. In addition to the information requested on the form, additional information may be required to enable the LUA or Development Review Board to adequately review the proposed land development. An application shall not be accepted or deemed complete unless the application:

- a. is signed by the applicant (who must be the owner of record, or the owner and future developer); and
- b. is accompanied by the required fees; and
- c. supplies all information required on the application form.

When additional information is requested in writing from the applicant by the LUA in order to consider the permit application complete, and such information is not presented within 90 days of the written request, the application will expire and be deemed rejected and any fees paid to date will be forfeited.

**4.3 Relationship of Administrative Permit to Other Approvals/Permits.** Granting of a permit under these Bylaws does not relieve the applicant of the need to obtain any other local, state or federal permit required for the development. When other municipal permits, approvals, or authorizations are required, the LUA shall notify the applicant and refer the applicant within thirty (30) days to the appropriate body. These additional permits or approvals may include:

- a. an access permit from the Selectboard or Agency of Transportation if there is a new or modified access from a town or state road onto the property.

- b. Conditional Use Approval from the Development Review Board. This approval shall be required prior to the issuance of an Administrative Permit if a development involves a conditional use. (see Section 3.5);
- c. a Floodplain Development Permit from the Development Review Board. This approval may be required if the project is in an area regulated under the Hartland Flood Hazard Regulations. This permit must be received prior to applying for an Administrative Permit, and shall be in addition to any Administrative Permit needed, and its terms and conditions shall supersede the Administrative Permit if more stringent.
- d. a local Subdivision Approval for the creation of a lot, or lots (see the requirements of Section 3.5 and Article 6);
- e. a waiver or variance under these Bylaws may be needed prior to an Administrative Permit if a project will not conform to the requirements of these Bylaws and the conditions for waiver or the issuance of a variance are met.

**4.4 Approval or Denial of Permit.** Within thirty (30) days of the submission of a complete application for an Administrative Permit, the LUA shall either issue or deny the Administrative Permit. If the permit is denied, the LUA shall notify the applicant in writing, stating the reasons for denial and the procedure for appeal. Denials shall be filed in the permit and land records in the same manner as approvals.

If the LUA fails to act on a completed application within thirty (30) days, a permit shall be deemed issued on the 31st day. In the event of such failure to act, the applicant must obtain certification from the Town Clerk documenting the LUA's failure to act within the specified period of time.

**4.5 Effective Date of Administrative Permit and Posting.** Administrative Permits shall not take effect until fifteen (15) days after issuance by the LUA, or, in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of the appeal. Each permit or notice of permit issued under this **section** shall contain a statement of the period of time within which an appeal may be taken.

Within three (3) days following the issuance of a permit, the LUA shall:

- a. deliver a copy of the permit to the listers of the municipality;
- b. post a copy of the permit at the town office until the time for appeal has passed; and
- c. cause a copy of the Notice of Permit on a form prescribed by the Development Review Board to be posted within view from the public right-of-way most nearly adjacent to the subject property.

**4.6 Filing.** After the fifteen (15)-day appeal period has closed, but within thirty (30) days after an Administrative Permit has been issued, the LUA shall also deliver the original or a legible copy of the Notice of Permit to the Town Clerk for recording in the town's land records along with a form that describes:

- a. as grantor, the owner of record title to the property at the time the municipal land use permit or notice of violation is issued;

- b. as grantee, the municipality issuing the permit, certificate or notice;
- c. the municipal or village office where the original, or a true, legible copy of the municipal land use permit may be examined;
- d. whether an appeal of such permit, certificate, or notice has been taken; and
- e. tax map lot number or other description identifying the lot.

The Town Clerk may charge the applicant for additional recording fees as allowed by law.

The LUA shall also file a copy of the effective permit along with any necessary approvals, conditions, maps, or drawings in the permit files in the town office where full copies of all municipal land use permits are kept.

**4.7 Permit Duration.** All land development approved in any Administrative Permit shall be commenced or acted upon within two (2) years from the date of issuance of an Administrative Permit. Administrative Permits shall expire three (3) years from the date of issuance for any project not substantially completed within that time. Projects not substantially complete may only then be continued following the granting of a new Administrative Permit issued in accordance with the Bylaws then in effect.

**4.8 Appeal of LUA's Actions or Administrative Permit.** An interested person as defined by §4465 of the Act may appeal any decision or act taken by the LUA by filing a notice of appeal with the secretary of the Development Review Board, or with the Town Clerk if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the LUA.

The Development Review Board shall conduct a hearing on the appeal, as provided in §4465-69 of the Act. The Board shall render its decision within forty-five (45) days after the close of all evidence and the Development Review Board's final hearing. The decision shall include findings of fact setting forth the basis for the decision. Failure to render a decision within the forty-five (45) days as set forth above will result in an automatic granting of the appeal. Copies of the decision will be promptly mailed to the applicant and any appellant by certified mail, and by first class mail to every interested person or entity appearing and having participated at the hearing(s), and also filed with the LUA and the Town Clerk. Board decisions may be further appealed to the Environmental Court in accord with §4471 of the Act.

**4.9 Certificate of Occupancy.** It shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, in any zoning district until a Certificate of Occupancy is issued by the LUA stating that the proposed structure or land conforms to the requirements of these Bylaws and any permits or approvals issued thereunder. With regard to structures, when sufficient progress has been made so the structure is habitable, or useable for its intended purposes, the LUA shall promptly inspect such premises upon request and issue a Certificate, a Conditional Certificate, or a written report detailing work still to be done before a Certificate can be issued.

## **ARTICLE 5 - CONDITIONAL USE APPROVAL**

**5.1 Conditional Use Approval.** No Administrative Permit shall be issued by the LUA for any use or structure identified as a conditional use in the district where the proposed development is to occur until the Development Review Board grants Conditional Use Approval. The Development Review Board will approve an application only upon findings that the proposed conditional use will conform to the specific requirements prescribed in these Bylaws and that it will not unduly adversely impact:

- a. the capacity of existing or planned community facilities;
- b. the character of the area affected, as defined by the purpose or purposes of the zoning district within which the development is located, and specifically stated policies and standards of the municipal plan;
- c. traffic on roads and highways in the vicinity;
- d. bylaws and Ordinances then in effect;
- e. utilization of renewal energy resources.

In granting Conditional Use Approval, the Development Review Board may attach such reasonable conditions as it deems necessary to implement this Bylaw. The Development Review Board shall hold a public hearing upon public notice on the application and shall act to approve or disapprove the application within forty-five (45) days of the close of the last hearing. If Conditional Use Approval is granted by the Development Review Board and not appealed, an Administrative Permit will be issued to the applicant within thirty (30) days of the receipt by the LUA of a complete Administrative Permit application and the permit will become final fifteen (15) days after said issuance.

**5.2 Application for Conditional Use Approval.** Applications for Conditional Use Approval must be made on forms approved by the Development Review Board and available from the LUA. Applications shall be accompanied by such materials as may be required by the Development Review Board and payment of such fees as determined by the Selectboard. In nondiscretionary matters, the LUA may determine that the application is not complete and request the submission of additional information. When additional information is requested from the applicant by the LUA in order to consider the permit application complete, and such information is not presented within ninety (90) days, the application will be deemed withdrawn, and any fees paid will be forfeited.

**5.3 Hearing for Conditional Use Approval.** At least one (1) public hearing is required prior to approval of a conditional use. To assist the Development Review Board in its review of technical issues in applications under this section, it may, after notifying and consulting with the applicant, retain, at the applicant's expense, independent consultants and require that the applicant pay the reasonable cost of their services. Any final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

**5.4 Approval or Denial.** The Development Review Board shall grant or deny the application for Conditional Use Approval within forty-five (45) days of the closure of all evidence and the adjournment of the final hearing on the application, or the application will be deemed approved. Any approval or denial shall contain written findings of fact setting forth the basis for approval or denial, list any conditions, and address each of the standards relevant to the proposed development. Copies of the decision approving or denying the conditional use will be promptly mailed to the applicant by certified mail, and by first class mail to every interested person or entity who appeared and participated at the hearing(s). Copies of any conditional use decision shall be filed by the applicant with the LUA and the Town Clerk.

**5.5 Expiration of Approval for Conditional Use Approval.** Any Conditional Use Approval granted under this Bylaw shall expire one (1) year from the date of the written decision granting such approval unless an Administrative Permit has been issued by the LUA for the approved development.

**5.6 Appeal of a Conditional Use Decision.** The approval or denial of a Conditional Use Approval by the Development Review Board may be appealed to the Environmental Court in the manner specified in §4471 of the Act.

**5.7 General Standards for Conditional Use Approvals and Subdivisions.** The design of all subdivisions or developments shall conserve, to the extent reasonable, existing resources including streams, forest and meadowland, primary agricultural soils, historic structures or sites, scenic resources, wildlife habitats, wetlands, aquifers, and other natural or cultural resources. Specifically, the following areas shall be treated as follows:

**5.7.1 Except as otherwise set forth in these Bylaws, all conditional use and subdivision applications shall comply with the following general standards**

**5.7.1.1 Surface Water, including Wetlands.** Except for stream crossings approved by the State of Vermont, no development or earth disturbance shall be allowed within fifty (50) feet of any surface waters. Stream crossings may require either a Stream Alteration Permit by the Vermont River Management Program or a letter from the program commenting on the design of the crossing. Class I and II wetlands, as identified and defined in the Vermont Wetland Regulations, shall not be drained, filled, or altered to accommodate subdivisions except upon issuance of a Conditional Use Determination by the Natural Resources Board. Proposals for a land development, including land disturbance, within one hundred (100) feet of a Vermont regulated wetland, as shown on the Advisory Map, shall be designed to provide for adequate setbacks, which shall be determined in consultation with the Vermont Agency of Natural Resources using the then applicable Vermont Wetland Regulations for major subdivisions. Applicants may be required to hire a qualified consultant to perform a wetlands delineation in accordance with accepted Vermont protocols for delineated wetlands. Proposals for major subdivisions which have the potential to impact an identified Class I or II wetland shall delineate said wetland boundaries by a qualified wetland consultant. This provision shall

not apply to the use of such areas for the growing of food or crops in connection with agricultural activities.

**5.7.1.2 Parking:** Adequate parking must be provided in accordance with **Section 3.4** of this Ordinance. In addition, for all commercial uses, adequate parking spaces must also be provided for all delivery/service vehicles, all vehicles used in the business, and the Applicant shall provide at least two (2) spaces for the public. It is the intention of this section that reasonable parking will be provided so that full occupancy or maximum expected use will not create an unsafe situation. Off-site or shared parking facilities may be considered in lieu of on-site parking as long as: (1) there is sufficient area to construct the parking on site in the future; or (2) there is an irrevocable license or easement, approved by the Development Review Board, granted by the owner of these alternate sites to the Applicant to use their property for the required parking. For businesses with anticipated parking needs of over twenty (20) spaces, an engineered parking plan may be required. Parking may be required to be screened with vegetation or placed behind structures. For uses with sufficient traffic, a transit stop space may be required.

**5.7.1.3 Traffic and circulation:** With regard to all commercial or public uses, or the subdivision of lands for commercial purposes, adequate vehicular and pedestrian lanes shall be provided so as to allow residents, employees, business vehicles, and delivery/service vehicles to safely enter and exit the site. The Development Review Board may require an engineered traffic circulation plan for the site and an impact study on town highways for all development with tractor trailer traffic and/or uses that generate more than seventy-five (75) vehicle trips per day, or for development accessed from roads with high accident rates. Land development shall be designed so as not to cause unreasonable congestion or unsafe conditions with respect to roads and highways within or leading to or from the proposed development. The Board may prohibit uses that would require upgrades to town highways or that would result in an undue adverse impact (including noise, dust, vibration, and volume) on traffic on roads and highways in the vicinity. The impact of the development on the safety of pedestrian and bicycle traffic and connectivity to off-site bike or pedestrian facilities may also be considered. Roads and access drives shall be designed to:

- i. have adequate sight distance (according to Vermont Agency of Transportation standards) for all traffic at intersections impacted by the development;
- ii. minimize the number of new intersections with existing roads;
- iii. eliminate excessive grades or grade transitions;
- iv. have sidewalks, shoulders, turn lanes, transit stops or bike lanes, or rights-of-way for such, as needed;
- v. meet applicable town and state construction and geometry standards or guidelines; and
- vi. meet applicable standards outlined in any applicable town or state highway design or road specification regulations or policy.

**5.7.1.4 Signs:** All new signs shall be no larger than 64 square feet of total viewable space, and shall not move, blink, be placed in the town right-of-way, nor be illuminated after business hours.

**5.7.1.5 Exterior storage:** Outside storage of materials, supplies, equipment, or vehicles incidental to a commercial use or the subdivision of lands for commercial purposes may be required to be landscaped or screened so as to minimize its visual impact as seen from adjoining properties or public roads.

**5.7.1.6 Scenic Resources:** Development or the subdivision of lands in the Rural or Rural Residential Districts which are adjacent to and visible from public roads or places of public congregation shall be required to be designed to ensure that the development (including grading, filling, removal of trees or contributing landscape features and placement of utilities, structures, and parking) conforms with 5.1.b.

**5.7.1.7 Lighting:** All exterior lighting shall conform to Section 3.4(d) and shall be the minimum intensity and amount needed and shall use all reasonable practices such as shielding, motion sensors, timers, and other methods so as not to emit light onto neighboring properties.

**5.7.1.8 Historic Resources:** Where the development is proposed to occur or will potentially impact any stone wall, structure, district or archeological landmark which has been officially included in the National Register of Historic Places and/or the State Register of Historic Places or which is determined by the Development Review Board through testimony to be historically significant, said development shall be designed so as to minimize any impacts to the significant archeological or historic features of the property.

**5.7.1.9 Primary Agricultural and Forest Soils:** Conditional Use and Subdivision Approvals will be granted for the development on lands determined to contain primary agricultural or forestry soils only when it is demonstrated by the Applicant that the development or subdivision has been designed to minimize any reduction in the agricultural or silvacultural potential of the property and that the development will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential. Any land development or disturbance of the land involving tracts of five (5) acres or more which contain primary agricultural or forestry soils shall be approved only after a finding by the Development Review Board that the development or subdivision has been planned to maximize the agricultural or silvacultural potential of the land through the use of innovative land use design resulting in a compact development or subdivision preserving the remaining primary agricultural or forestry soils. When the Development Review Board determines that primary agricultural or forestry soils will be lost or compromised as a result of a

development or subdivision, the Development Review Board shall condition any approval upon the applicant providing suitable mitigation through the perpetual preservation of other primary agricultural soils in the Town of Hartland of equivalent acreage and agricultural or forestry value.

**5.7.1.10 Emergency Services:** Land development or the subdivided lands shall be designed to the satisfaction of the Hartland Fire Department to ensure adequate provision of facilities necessary for emergency services, safely accommodate emergency vehicles, and provide water supply (fire ponds and/or dry hydrants) when determined necessary.

**5.7.1.11 Stormwater and Erosion Control:** The Development Review Board may require the applicant to demonstrate that the development or the subdivision of lands has been designed by a licensed or certified engineer to control stormwater run-off, prevent erosion, and protect neighboring land, water, and roads from undue adverse impacts.

**5.7.1.12 Ancient Roads and Trails:** Development shall not result in an undue adverse effect on ancient roads or trails that appear on the highway map certified annually to the Vermont Agency of Transportation by the Selectboard.

**5.7.1.13 Noise:** Persistent discernable noise, except that customary and incidental to residential uses, beyond the Applicant's property line is not permitted from 7PM to 7AM, or on weekends. From 7AM to 7PM, such noise shall be limited to 70 DbA LMAX at the Applicant's property line. The Development Review Board may require the owner or occupant to hire a qualified engineer, at the Applicant's expense, to certify that the above sound levels are met.

**5.7.1.14 Dust, Smoke, and Odor:** Except as incidental and customary to residential uses, no visible dust, smoke or discernable objectionable odor beyond the property line is permitted.

**5.7.1.15 Conservation of Open Space:** All major subdivisions in the Rural and Rural Residential Districts will be required to maintain at least 80% of the total acreage in contiguous (but not necessarily single ownership) and undeveloped acreage.

**5.7.1.16 Character of the Land and Site Preservation:** Subdivisions shall be designed in reasonable conformity with existing topography to minimize grading, to reduce cuts and fills, and to retain, insofar as reasonable, natural contours, land cover, and soil. Projects involving major disturbance to existing topography (including blasting) must show that there is no feasible alternative, and the Development Review Board may require a program of landscaping, soil stabilization, and the establishment of appropriate, permanent vegetative cover

following excavation or grading. No new slopes may be created with a slope greater than 1:3.

All land to be subdivided shall be, in the judgment of the Development Review Board, of such a character that it can be used for the intended purposes without danger to public health or safety, to the environment, or to critical resources as identified in the Town Plan. Land primarily designated as flood hazard areas or characterized by poor drainage or steep slopes, or subject to other hazardous conditions, shall not ordinarily be subdivided.

**5.7.2 Lot layout shall:**

- a. be consistent with site topography and the suitability of the land for development;
- b. meet zoning district minimum lot size and density requirements;
- c. avoid irregularly shaped lots (e.g., with curves, jogs, dog-legs, etc.), unless warranted due to topographic constraints or to minimize the fragmentation of natural, scenic, or cultural features; and
- d. shall not result in an undue adverse effect on ancient roads, trails, or roads that are shown on the most recent Hartland town highway map certified annually to Vermont Agency of Transportation by the Selectboard, or any other public roads or public rights-of-way that the Development Review Board determines, based on written town records, are eligible under Vermont law for inclusion on that map.

**5.7.3 Water Supply and Wastewater Disposal:** Where creation of lots is intended for development requiring on-site sewage systems or potable water supplies, state permits will be required as a condition of any final Subdivision Approval. Alternatively, permit conditions may specify that no lots may be sold until such permits are granted. For lots without designed systems and intended to have no buildings, the required deed notice in the Vermont Environmental Protection Rules shall be a condition of final plat approval and shall be legibly reproduced on the filed mylar plat.

**5.7.4 Roads and Rights-of-Way:** All new, or extensions of, private roads, whether or not intended to be taken over by the town, and new private access rights-of-way, shall:

- a. preserve existing public access through the property to adjoining properties or uses when in the town's interest;
- b. logically relate to the topography so as to produce usable lots and road grades in compliance with town policies or standards without significant amounts of cut and fill;
- c. allow safe pedestrian and/or bicycle circulation within the subdivision and to connect to town highways;
- d. have an access right-of-way of at least fifty (50) feet for private roads unless a lesser right-of-way of not less than thirty (30) feet is approved by the Development Review Board; and

- e. conform to town road policies, ordinances, or standards, though access rights-of-way need not conform to width requirements.

**5.7.5 Access:** No lot may be created that does not have an approved direct access onto a public road or access to such public road by a private road or access right-of-way of sufficient width as described in **Section 5.7.4(d)**. Proposed access roads and driveways shall not unduly interfere with public safety, nor result in excessive curb cuts. Subdivision Approvals shall state that re-subdivision of a parcel after the effective date of adoption shall not create a right to construct another curb cut and that the owners of subsequent subdivisions may be required to use the same access.

**5.8 Additional Specific Conditional Use Standards for Telecommunication Facilities:**

All new, modified, or expanded wireless telecommunication facilities, including, but not limited to, towers, antennas, and accessory structures as well as related utilities and access roads, are subject to the general development standards for the district in which they are located, as well as general conditional use standards and the specific conditional use standards contained in this section. The Development Review Board shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility and also may require qualified independent consultants to verify claims made by the applicant at the applicant's sole expense.

**5.8.1 Specifically exempted from the provisions of these Bylaws are:**

- a. a single ground or structure-mounted radio, television, or broadband antenna or satellite dish, not exceeding thirty-six (36) inches in diameter or ten (10) feet in length;
- b. all citizens band radio antennas, or antennas operated by a federally licensed amateur radio operator, which do not exceed a height of fifty (50) feet above the grade level, whether free standing or mounted, and which are set back at least 150% of their height from property lines.
- c. facilities that are exempted by law and subject to Section 248 proceedings by the Public Service Board.

**5.8.2 Co-location Requirements:** An application for a new wireless telecommunications facility shall only be approved by the Development Review Board upon a finding that the new facility cannot be accommodated on an existing or approved tower or structure within the Town of Hartland due to one (1) of the following reasons, as documented by a qualified engineer licensed to practice in the State of Vermont:

- a. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
- b. The proposed antennas and equipment would cause radio frequency interference (RFI) materially impacting the usefulness of other existing or

permitted equipment at the existing or approved tower or facility and such interference cannot be mitigated at a reasonable cost.

c. The proposed antennas and equipment, either alone or together with existing facilities, equipment, or antennas, would create excessive radio frequency radiation (RFR) in violation of federal standards or requirements.

d. Aesthetic reasons or existing permit conditions make it unreasonable to locate the planned equipment upon an existing or approved tower or building.

All new facilities and lease agreements granted a permit in Hartland shall be designed and written to reasonably accommodate both the Applicant and at least one (1) additional similar user if the tower is less than or equal to seventy-five (75) feet in height, and for two (2) additional users if it exceeds seventy-five (75) feet in height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights. Sufficient power and access to the site may also be required to service additional users.

**5.8.3 Alternatives Analysis:** If there is no feasible co-location available, the Board must also find that the Applicant has analyzed other potential sites or methods and selected the least intrusive option. In reaching these findings, the Board may designate alternative location(s) or method(s) to be evaluated at the Applicant's expense to determine if it would result in fewer adverse impacts. Where facilities are proposed based on the location of additional facilities that are not permitted in town, then the cumulative proposed facilities may be required to be reviewed as a single application and also subjected to alternatives analysis.

**5.8.4** All towers, including antennas, shall be designed to have the minimum height necessary to reach the coverage objective. Unless it is the only option necessary to comply with FCC regulations, no towers may exceed seventy-five (75) feet in height.

**5.8.5** No speculative towers are allowed. An applicant for a permit must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity to the LUA at the time that an application is submitted.

**5.8.6** Towers shall be set back at least 150% of their height from all property lines and public rights-of-way. Antennas may be permitted with less setback to allow for their integration onto an existing 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.

**5.8.7** Facility construction and operation shall meet all state and federal requirements, including but not limited to FCC requirements for transmissions, emissions, and interference. No telecommunication facility, when fully equipped, shall be located or operated in such a manner that it poses a potential threat to public health or safety. Certification by a licensed engineer that the use will be in

compliance with any federal radiation standard may be checked by independent review, but may not be cause for denial without conflicting certification by such an engineer.

**5.8.8** New facilities and their associated access and utilities shall be designed and located to minimize their visibility through the use of existing vegetation, topography, landscaping and screening, use of compatible materials and colors, or other camouflaging techniques. Towers shall not be illuminated and shall not display strobe lights, unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority. Towers shall be of a monopole design unless it is determined by the Development Review Board that an alternative design would better blend into the surrounding environment. All utilities proposed to serve a telecommunications site shall be installed underground, except in cases where they pre-exist. All access roads must meet the same standards as for all other development. In order to minimize the visual impact of a straight line cut through forested areas for access to the tower, the Development Review Board may require a modified access route.

**5.8.9** Free-standing towers may be required to be enclosed by security fencing at least six (6) feet in height and shall be equipped with appropriate anti-climbing devices.

**5.8.10** No signs other than for warning or equipment and contact information signs are allowed on the facility, and any exterior lighting must be shielded and motion activated.

**5.8.11 Annual Certification:** Any Conditional Use Approval shall require that the owner of a facility shall annually, on January 15, file a declaration with the Town of Hartland's LUA certifying the continuing safe operation by a wireless carrier of every facility installed subject to these regulations. Failure to file a declaration shall mean that the facility is no longer in use and may be considered abandoned and subject to removal and forfeiture of bond after notice by certified mail. A copy of the relevant portions of any signed lease, which requires the applicant to remove the tower and associated facilities when abandoned, shall be submitted at the time of application.

**5.8.12 Removal and Bond:** After proper notice, facilities which are constructed in violation of permit conditions or application representations, and facilities deemed to be abandoned, shall be removed by the owner within one hundred eighty (180) days of notice, certified as required above. In the event the tower or facility is not removed within the one hundred eighty (180) days, the municipality shall notify the owner and may remove the tower or facilities at the owner's cost. All facilities shall, as a condition of approval, provide a financial surety bond payable to the town and acceptable to the Board to cover the cost of removal of the facility and remediation of the landscape should the above clause be invoked.

**5.8.13 Maintenance Requirements:** The applicant shall maintain all facilities. Such maintenance shall include, but not be limited to, erosion control, painting, structural integrity, and landscaping.

**5.9 Additional Specific Conditional Use Standards for Sand and Gravel Extraction, Mining, and Quarrying.**

**5.9.1** When applying for a Conditional Use Approval for any development involving commercial mining, quarrying or sand and gravel extraction, the Applicant must submit:

- a. complete site plan and activity description, showing the location of all present and proposed extraction sites, the expected duration and intensity of the activity, whether it is expected to be intermittent or ongoing, and a description of any power activated excavation or extraction machinery to be used for crushing, sorting, processing, transporting, drilling, or excavating;
- b. an access plan, showing all roads proposed to be used and drainage and anticipated traffic volumes, including all truck traffic volumes and truck routes; and
- c. a site reclamation plan, showing all extraction sites and the proposed method and location of stabilization with a proposed permanent vegetative cover.

**5.9.2** In addition to the General Standards (3.4) and Conditional Use Standards (5.7), any new extraction operation, or the expansion of an existing extraction operation, must also meet the following standards:

- a. No stationary processing machinery will be located less than 300 feet from any property line, unless appropriate mitigation (screening, noise control, etc.) is approved by the Development Review Board.
- b. Only intermittent blasting will be allowed as approved by the Development Review Board and may take place no more than two (2) days per week.
- c. Blasting operations must be preceded by written or verbal notice to abutting landowners at least 24 hours in advance and also by an audible warning signal prior to any individual blast. In no case can the vibration or shock of blasting be sufficient to damage nearby utilities, structures or their contents, or exceed the standards for vibrations per inch as contained in the United States Bureau of Mines Standards.
- d. Topsoil, if present on the site, shall be retained on site in sufficient quantity to achieve the rehabilitation plan.
- e. A one hundred (100)-foot minimum undisturbed, naturally vegetated buffer zone (measured horizontally) is required to be maintained between the top or bottom of any working faces, proposed stabilized banks or rock cuts, and property lines. Fencing may be required within the buffer zone for safety.
- f. Reclamation plans shall provide that the finished land will not have banks of material exceeding a 1:2 slope, except in the case of stable rock.
- g. A bond may be required sufficient to insure compliance with any approved reclamation plan.

- h. Except where the Development Review Board approves the construction of a pond as part of a reclamation plan, the depth of excavations shall be such that at least three (3) feet of undisturbed, native material shall be left in place over the seasonal high water table.

**5.10 Specific Conditional Use Standards for Wind Turbines.** In addition to the general and conditional use standards, as well as those of any district, any wind turbines (except as exempted by law) shall be limited to no more than ninety (90) feet in height and shall require the same bonding and setback requirements as telecommunications towers.

**5.11 Additional Specific Conditional Use Standards for US 4/VT 12 Junction District/I-91 Interchange Area Districts:**

**5.11.1 The following special standards apply in addition to other standards:**

- a. Direct access to Route 4 may be limited for safety considerations to Town Highway 51. Proposed development that shares an existing access onto US 4 may be acceptable, but will need careful review to ensure that no unsafe situation exists or is created.
- b. Any proposal for development in the proposed districts that would result in a significant increase in traffic volume or significant change in the character of traffic shall be accompanied by a traffic analysis. This analysis must show that the proposed mitigation of the impacts of additional traffic would prevent any decrease in safety.
- c. The character of any proposed development shall be consistent with the scale of existing buildings and similar in design.
- d. Shared vehicular access between lots on US 5 may be required in order to reduce traffic congestion and enhance vehicle, bicycle, and pedestrian safety.
- e. Development shall not adversely affect the vitality of the village center.
- f. Impervious surfaces shall be minimized, thus reducing the potential run-off from a variety of pollutants.
- g. Formula businesses, primary retail operations other than listed, 24/7 operations or drive-thru facilities are not allowed.

**5.12 Specific Conditional Use Standards in the Rural District.**

**5.12.1** Within the Rural District only, any new development requiring a zoning permit that is more than eight hundred (800) feet from a town road and visible from a public right-of-way must be constructed so that:

- a. no portion of a structure extends above the site's tree line;
- b. site clearing shall not break the canopy along the ridge as seen from public roads; and
- c. buildings not screened by existing vegetation shall not disturb the natural silhouette of the ridgeline, and shall minimize their visibility as seen from

adjoining properties and public roads through plantings, muted colors and less reflective materials.

**5.13 Limitations on Regulation.** Notwithstanding any other provision of these Bylaws, the following uses may be regulated under these Bylaws 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 regulations do not have the effect of interfering with the intended functional use:

- a. state- or community owned and operated institutions and facilities;
- b. public and private schools and other educational institutions certified by the state Department of Education;
- c. churches and other places of worship, convents, and parish houses;
- d. public and private hospitals;
- e. regional solid waste management facilities certified under 10 V.S.A. Chapter 159; and
- f. hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

## **ARTICLE 6 - SUBDIVISION**

**6.1 Need for Approval and Permit.** Unless otherwise specifically exempted, no division of a parcel of land whether by sale, gift, lease, or otherwise; nor the filing of a plat in the town land records which results in the creation of two (2) or more lots may take place without a Subdivision Approval and Administrative Permit.

**6.2 Waivers.** In connection with any subdivision approval, the Development Review Board may waive, subject to appropriate conditions, the provisions of any or all application or review procedures, or development requirements, if, in its judgment, special circumstances exist and strict compliance with these regulations is not required to ensure compliance with the Act or to protect public health, safety, and general welfare.

A request for a waiver shall be made in writing by the Applicant, and it shall be the responsibility of the Applicant to provide sufficient information with the request to identify the special circumstances needed to justify the waiver and to enable the Development Review Board to reach a decision.

The Development Review Board shall review all waiver requests during the preliminary plan approval proceeding (Section 6.7), and if a waiver or waivers is/are granted, may attach to the grant of any waiver(s) such conditions as will in its judgment secure substantially the objectives of the requirements in these regulations as if no waiver had been granted. Such waivers and their justification shall be in writing and shall be stated in any subdivision approval decision.

**6.3 Exemptions.** The following are not subdivisions for the purposes of these Bylaws, but do require an Administrative Permit to ensure that the lots being created comply with the minimum dimensional requirements for the applicable zoning district;

- a. divisions of parcels or lots between the owners of adjoining properties for the purpose of making minor adjustments to their property lines or to establish clearer property descriptions along common boundaries where the resulting number of parcels or lots remains unchanged;
- b. annexations that result in the combination of any existing parcels or lots into a single parcel or lot;
- c. formal division of a lot by deed or plat when that lot is already deemed divided under 9.2; and
- d. division of a parcel or lot located in the Rural or Rural Residential District may be subdivided into no more than two lots so long as the lot to be subdivided was in existence and under the same ownership on the effective date of these Bylaws. Any said subdivided lots shall both meet the dimensional requirements as set forth at Section 3.5.4.5 or 3.5.6.1 and shall require an Administrative Permit from the LUA.

#### **6.4 Subdivision Categories - Minor versus Major**

**6.4.1 Minor.** All subdivisions resulting in the creation of not more than three (3) total lots, other than those exempted under Section 6.3, and not requiring the creation of a new road or roads, will be considered minor subdivisions.

#### **6.4.2 Major.**

- a. All subdivisions resulting in the creation of four (4) or more lots are major subdivisions.
- b. The division, revision, or modification of a duly recorded plat which results in the creation of a fourth lot and any subsequent lots from an original parcel that was in existence on the date of the adoption of these Bylaws shall be reviewed as a major subdivision.
- c. Any subdivision requiring the creation of a new road or roads shall be considered a major subdivision.

**6.5 Pre-application Meeting.** Applicants for subdivisions are encouraged to request a Pre-Application Meeting to discuss the overall description of the project with the LUA. During the Pre-Application Meeting, the LUA shall attempt to familiarize the applicant with the regulations and answer basic questions of procedure prior to the submittal of a subdivision application.

**6.6 Sketch Plan Review.** Applicants for all subdivisions may request a Sketch Plan Review Meeting with the Development Review Board to review the proposed subdivision plan and receive the comments, if any, of the Development Review Board.

When so requested, the Development Review Board shall hold a Sketch Plan Review Meeting with the Applicant, which shall be conducted at a public meeting. No written findings, conclusions or decision shall be provided to the Applicant during Sketch Plan

Review and any comments by the Development Review Board, the Applicant and interested parties shall be advisory only.

**6.7 Preliminary Plan Approval.** The Applicant shall pay the required application fee for the project to proceed to Preliminary Plan Approval. Preliminary Plan Approval shall be deemed the substantive review stage for all major subdivisions at which time during a public hearing the application will be reviewed by the Development Review Board. The subdivision plan may be modified as needed to comply with these Bylaws and all parties' input received.

**6.7.1 Required information for major and minor subdivisions.** The following shall be required, unless waived, prior to the warning of the Preliminary Plan Approval hearing:

- a. name and address of the landowner and applicant, if different;
- b. names and mailing addresses of all adjacent property owners;
- c. a written description and sketch map of the proposed subdivision, including the number and size of the lots, all lot boundaries, access/egress points, internal roads, parking areas, land clearing, any proposed new utilities, and the general location on the subdivided lots of any anticipated structures. Maps shall be at a scale such that the entire subdivision is viewable on a single page, and at a scale that identifies all required details;
- d. a written description of the type(s) and design(s) of water supply, sewage disposal, and stormwater systems to serve the subdivision;
- e. copies of any proposed covenants, common driveway/right-of-way agreements, and/or deed restrictions which are intended to cover all or part of the subdivision; and
- f. a description of the homeowners' association or other forms of management organization, if one is proposed.

**6.7.2 Minor Subdivisions.** For minor subdivisions, the Development Review Board may require such other information in addition to that under 6.7.1 as it deems necessary to determine compliance with the subdivision standards.

All minor subdivisions in any district other than in the Rural or Rural Residential District shall require a survey prior to the LUA's warning the hearing.

**6.7.3 Major Subdivisions.** Unless waived by the Development Review Board, for a major subdivision the following additional items shall be required from the Applicant prior to warning the first hearing for Preliminary Approval:

- a. road profiles for any new roads, drives, or rights-of-way;
- b. vegetation cutting/landscaping plans;
- c. surveys of all involved parcels, produced at a scale such that the entire subdivision is viewable on a single page, and at a scale that identifies all relevant details;
- d. location of Vermont Class I or II wetlands;

- e. locations of proposed water supply and sewage disposal system(s) and an engineer's certification demonstrating that said systems, if built, will comply with applicable Agency of Natural Resources regulations;
- f. a stormwater drainage plan, drawn at a contour interval not greater than two (2) feet, which shall indicate the methods of collecting, treating, and discharging stormwater drainage, as well as methods for temporary and permanent erosion control. For any project disturbing more than one (1) acre of land, a state stormwater construction permit shall be required, and for all projects permanently resulting in more than one (1) acre of new roads or impervious surfaces, a state operational stormwater permit shall also be required prior to the issuance of any final subdivision approvals;
- g. grading plans, if applicable, showing areas of cut and fill and revised contours at a contour interval not greater than two (2) feet; and
- h. an access permit, under 19 V.S.A. §1111, if needed, is required prior to the granting of final subdivision approval.

During the hearing, the Development Review Board may require that the Applicant produce any other information it deems necessary to determine compliance with the subdivision standards for major subdivisions.

**6.7.4 Hearing and Preliminary Approval.** Following the submittal of a complete application and sketch plan review, the Development Review Board shall warn a public hearing, with proper notice, for the purpose of reviewing the preliminary plan and any other information required to be presented to determine whether or not the application conforms to, or would be in conflict with, the Town Plan, these Bylaws, and/or any other applicable town regulations. For minor subdivisions, the Development Review Board at the developer's request shall also warn the hearing as the Final Plan Approval Hearing. All materials presented must be in final form and shall not require changes prior to approval, otherwise only Preliminary Approval may be granted and an additional Final Subdivision Approval hearing must be held.

People seeking interested party status must participate in the Preliminary Approval Hearing (this may be done in writing) to retain any appeal status.

The Development Review Board shall determine whether the project meets the purposes of these bylaws and each standard in Section 6.12 and may make specific written recommendations for changes necessary for such compliance.

As a condition to the Development Review Board granting Preliminary Plan Approval, it may require the subdivision to be divided into two (2) or more phases to insure conformity with the town plan and may impose such conditions upon the filing of the application for final plat approval for each phase as it deems necessary to assure the orderly development of the plat and to avoid the overburdening of town facilities and services.

Within fifteen (15) days after the close of the hearing, the Board shall approve with or without modification, or disapprove, the Preliminary Plan. Any conditions of the approval or grounds for disapproval shall be set forth in a written notice of decision. Copies of the decision shall be mailed by certified mail to the applicant and by first class to every person or entity appearing (in person or in writing) who participated at the hearing.

**6.7.5 Preliminary Plan Approval Expiration.** The approval of a Preliminary Plan shall be effective for a period of six (6) months from the date of the written notice of approval, but may be extended for one additional six (6) month period by the Development Review Board upon request of the Applicant.

**6.8 Final Subdivision Approval.** Within six (6) months following the Preliminary Plan Approval, the applicant shall submit a final plat for Final Subdivision Approval to the Development Review Board. The final plat shall demonstrate that the subdivision materially conforms to the layout shown on the Preliminary Plan, and has incorporated any modifications required by the Development Review Board during preliminary plan approval. If the applicant fails to do so within the time period set forth above, the Preliminary Plan Approval shall be void.

The Development Review Board shall hold a public hearing on the final plat, with notice as required, and shall, within forty-five (45) days from the adjournment of its final hearing, issue a Final Subdivision Approval if the final plat meets the requirements of the Preliminary Plan Approval and all conditions of said approval have been satisfied. Failure to issue a Final Subdivision Approval or denial within such 45 day period shall be deemed approval on the 46th day. In the event of such failure to act, the Applicant must obtain certification from the Town Clerk documenting the Board's failure to act within the specified period of time.

Copies of the decision shall be promptly mailed by certified mail to the Applicant, delivered to the LUA and sent by first class mail to every person or entity appearing (in person or in writing) who participated at the hearing. The approval or denial of a subdivision approval by the Development Review Board may be appealed to the Environmental Court in the manner specified in Section 4471 of the Act.

Following Final Subdivision Approval, an Administrative Permit must still be issued and filed with the Town Clerk and LUA, as must a mylar plat be filed with the Town Clerk in accordance with the Act.

Any Final Subdivision Approval shall expire 180 days after the date of the written decision granting such approval, unless a mylar version of the approved plat has been recorded in the Hartland Town Land Records, with an endorsement by the Development Review Board which reads as follows: "This subdivision was duly approved as conditioned by the Hartland Development Review Board in its decision dated on \_\_\_\_\_ (Month, Date, Year), and meets the requirements of the Hartland Land Use Bylaw. Signed \_\_\_\_\_ (Chair or Vice-Chair of the Hartland Development

Review Board.)" Notwithstanding the above, the LUA may extend the filing date up to an additional ninety (90) days if other permits are still pending.

Nothing in these Bylaws shall be construed to be an acceptance by the Town of Hartland of any dedicated road, land, or improvement shown on a plat. When any improvements are intended to become publicly owned, the Development Review Board may require as a condition of approval the filing by the Applicant of an agreement with the Selectboard covering the future acceptance of such dedications and the costs of maintenance.

**6.9 Completion of Infrastructure Improvements.** Subdivision approvals for subdivisions shall contain a time limit within which all proposed public or jointly owned components (roads, utilities, facilities, etc.) shall be substantially completed. The time limit shall not exceed three (3) years unless extended upon written request of the Applicant and upon approval of the Development Review Board following a duly noticed hearing.

**6.10 Performance and Maintenance Bonds.** As a condition of the approval of any subdivisions, the Development Review Board may require the posting of a performance bond or other security sufficient to guarantee the completion of all improvements (roads and related drainage; sewer, water and stormwater systems; landscaping; power lines, etc.) shown on the approved plat, as well as additional surety sufficient to cover the maintenance of such improvements for a period of two (2) years. All required bonds or security shall be posted before final approval. The guarantee shall be either a surety bond, letter of credit, or other surety acceptable to the Development Review Board, and in an amount and form as may be reasonably prescribed by the Development Review Board and approved by the Selectboard.

The bond shall require the completion of all improvements within the three (3) year term or any extensions of that period granted by the Development Review Board, and held by the Selectboard, who shall not release the guarantee until the improvements have been satisfactorily completed. In the event that the owner or developer fails to complete any or all of the guaranteed improvements within the required time period or approved extensions, the bond or other guarantee shall be forfeited to the town, who shall use the proceeds to cause the completion of such improvements.

**6.11 As-Built Drawings.** As a condition for approval of a major subdivision, the Development Review Board may require that the developer provide to the Development Review Board as-built drawings showing the exact location of all roads, utilities, curb cuts, structures, and other installed improvements.

**6.12 Subdivision Standards.** Except for subdivisions exempt under Section 6.3, both major and minor subdivisions shall comply with the General Standards set forth in Section 5.7.

## **ARTICLE 7 - SITE DEVELOPMENT PLAN APPROVAL**

In accordance with 24 V.S. A. §4416, no zoning permit shall be issued by the LUA for any use or structure until the Development Review Board grants Site Development Plan Approval. In reviewing site plans, the Development Review Board may impose appropriate conditions and safeguards only with respect to the adequacy of traffic access, circulation and parking, landscaping and screening, and the protection of renewable energy resources. The Development Review Board shall act to approve or disapprove any such site plan within sixty (60) days of its initial review. Failure to act within such period shall be deemed approval.

**7.1 Exemptions:** Exempted from Site Plan Review are one-and two-family dwellings and their related structures, home occupations, agriculture and forestry uses, and essential services. Also exempted are amendments to uses or structures which, in the opinion of the LUA, are minor and have no adverse effect on the objective stated for the zoning district in which the site is located. All such amendments shall be reported to the Development Review Board.

**7.2 Applications:** An applicant for a Site Plan approval shall submit two (2) copies of a Site Development Plan Drawing showing at a minimum the name and address of the owner of record, names of adjoining property owners, parcel size and location, access road(s), existing and proposed structures, existing and proposed drainage and grading, landscape features significant for the development (water, vegetation), the name and address of the person or firm preparing the drawing, scale of map, north arrow, and date.

The following proposed or pre-existing site elements shall be drawn to scale on the plan: internal streets, driveways and walks, utility easements and rights-of-way, parking and loading areas, above-ground equipment such as propane tanks, utility lines, transformers and switches, outside storage areas, sewage disposal areas, plantings, exterior lighting, and signs. The Development Review Board may require the Site Plan to be prepared by a professional architect, landscape architect, engineer, or surveyor.

In addition to the above-required site plan information, the Development Review Board may require the following:

- a. Site location map of the proposed development.
- b. Building information, including elevations and floor plans.
- c. A survey of the property or a portion of the property prepared by a licensed engineer and/or land surveyor showing boundaries, contours, vegetation and natural features, structures, access points, utility easements and rights-of-way.
- d. Information regarding and deed restrictions on file in the town land records.
- e. Stormwater drainage plan, including site grading, prepared by a licensed engineer.
- f. Plan for emergency vehicle access.
- g. Timetable for completion of improvements. For phased developments, construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
- h. Estimate of daily and peak hour traffic generation and/or a traffic impact study.

- i. Any other information or data that the Development Review Board may reasonably require.

**7.3 Review Standards.** The Development Review Board shall conform to the requirements of 24 V.S.A. §4416 before acting upon any application. The Development Review Board shall consider and may impose conditions in relation to the following objectives:

**7.3.1** Maximum safety of traffic circulation between the site and the street network and integration with the overall traffic pattern, including provisions for auxiliary roadways connecting with adjacent properties where appropriate. Included in this evaluation shall be the location, number and width of access points, curve radii at access points, acceleration or deceleration lanes on adjacent public streets, sight distances, lighting, location of sidewalks and other walkways, and the overall relationship of the proposed development with existing traffic conditions in the area.

**7.3.2** Adequacy of on-site circulation, parking, and loading facilities, with particular attention to safety. Included in this evaluation shall be traffic movement patterns, drive and aisle widths, directional signs, location of loading docks and parking areas, number and size of parking spaces, and provision for lighting, drainage, snow removal and access for emergency vehicles and public transportation.

**7.3.3** Adequacy of landscaping, screening, and setbacks in achieving maximum compatibility with and protection of adjacent properties by screening them from glare produced by interior or exterior lights and unsightly areas such as storage areas and parking lots; assurance that landscape materials will not interfere with visibility or safety and that they are of a type that can survive and be maintained as proposed.

**7.3.4** Protection of renewable energy resources including a finding that the proposed development does not adversely affect the ability of adjacent properties to use this form of energy.

**7.3.5** Compliance with other provisions of these regulations including Section 5.7 (General Standards for Conditional Use Approvals and Subdivision).

## **ARTICLE 8 - NON-CONFORMITIES, WAIVERS AND VARIANCES**

**8.1 Continuation of Nonconformities.** Any non-conformity (non-conforming use or structure) that conformed to all applicable laws, ordinances, and regulations on the effective date of these Bylaws may be continued indefinitely without change so long as said use or structure was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Bylaws.

If a non-conforming use is discontinued for a period of 24 consecutive months, it shall be deemed discontinued and shall not resume, except in compliance as would a new development, with the provisions of these Bylaws.

**8.2 Changes to Non-Conforming Uses or Structures.** A non-conforming use or a structure may be changed, subject to the following conditions:

**8.2.1** A non-conforming use may be altered, or changed to another non-conforming use, upon approval of the Development Review Board and the issuance of an Administrative Permit by the Land Use Administrator, but only if the Board finds that the degree of non-conformity of the proposed use is not significantly greater than that of the original non-conforming use and that the approval furthers the purposes of the Town Plan.

**8.2.2** A non-conforming structure may be expanded upon issuance of a waiver under Section 6.2, or if it cannot meet the conditions of 6.2, upon approval of the Development Review Board and the issuance of a Administrative Permit by the LUA, provided that the Development Review Board finds that the proposed expansion shall not significantly increase the degree of nonconformity and that the approval furthers the purposes of the town plan.

In issuing the approvals described in Section 8.2.1 or 8.2.2 above, the Development Review Board shall apply the procedures identified in Sections 5.2-5.6 for Conditional Use Approval.

**8.3 Variance.** The Development Review Board may grant a variance from the provisions of these Bylaws pursuant to §4469(a). Except as specified in §4469(b) of the Act for renewable energy structures, variances shall only be granted upon a written finding that ALL of the following facts are true:

- a. 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 these conditions, and not the circumstances or conditions generally created by the provisions of these Bylaws in the neighborhood or district in which the property is located;
- b. that because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Bylaws, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- c. that the unnecessary hardship has not been created by the appellant;
- d. 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, or be detrimental to the public welfare; and
- e. that the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from this Bylaw and from the Town Plan.

In rendering a decision in favor of an appellant under this section, the Development Review Board may attach such conditions to any variance approval as it deems necessary and appropriate to implement the purposes of the Act and the Town Plan. The Development Review Board must grant or deny the variance request within forty-five (45) days of the final hearing or approval will be automatically deemed to have been granted on the 46th day. Copies of the decision will be promptly mailed to the Applicant by certified mail, and by first class mail to every person or entity appearing and having been heard at the hearing(s), and also filed with the LUA and the Town Clerk.

**8.4 Expiration of Change to Non-Conformity, Waiver or Variance.** Any change to non-conformity, waiver or variance approval granted under this Bylaw shall expire one (1) year from the date of the written decision granting such approval unless an Administrative Permit has been issued by the LUA for the approved project.

**8.5 Appeal of Change to Non-Conformity Waiver, or Variance.** The approval or denial of a change to non-conformity, waiver, or variance by the Development Review Board may be appealed to the Environmental Court in a manner as specified in Section 4471 of the Act.

## **ARTICLE 9 - ADMINISTRATION**

**9.1 Undeveloped Existing Lots.** Any lot in individual, separate, and non-affiliated ownership from surrounding properties in existence on the effective date of these Bylaws may be developed for uses as allowed by these Bylaws, even though not conforming to minimum lot size requirements, provided such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty (40) feet. All other applicable requirements shall be met.

If an existing lot subsequently comes under common ownership with an undeveloped contiguous lot, the lots shall not be deemed merged.

**9.2 Effect of Road.** When a lot is divided by a state or municipal highway that existed on the date of adoption of these Bylaws, or when a lot is divided by surface waters with a drainage area of greater than ten square miles, then that lot will be treated as previously subdivided under these Bylaws.

**9.3 Equal Treatment of Housing and Mobile Home Parks.** These Bylaws shall not have the effect of excluding mobile homes, modular housing, or other forms of housing except as they may be excluded by the same terms and conditions of conventional housing. This Bylaw shall not have the effect of excluding mobile home parks, as defined in accordance with current Vermont statutes.

**9.4 Notice of Public Hearings.** At least one (1) warned public hearing shall be required for Conditional Use Approval, variances, LUA appeals, site plan review, and final plat review for subdivisions. Notice for a warned public hearing shall be given not less than fifteen (15) days prior to the date of the public hearing by all of the following:

- a. publication of a notice, at the applicant's expense, by the LUA in a newspaper of general circulation in the town of the date, time, place, and purpose of the hearing; a description of the proposed project; where additional information may be obtained; and that participation in the hearing is a prerequisite to the right to take any subsequent appeal;
- b. posting of the same information by the LUA in three (3) or more public places within the municipality, including at least the town office;
- c. posting of the same information by the applicant on a form provided by the town within view from the public right of way most nearly adjacent to the property for which an application is made. Such outdoor posting shall be posted no closer than seven (7) feet to the traveled surface. Posting on private property outside the right-of-way requires landowner permission. The applicant must provide a signed certificate of posting at the hearing;
- d. mailing by the applicant of a copy of the public posting by first class mail to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The applicant must provide a signed certificate of service at the hearing, or return receipts if they choose to use certified mail;
- e. written notification to any neighboring town's clerk if the proposed subdivision is within five hundred (500) feet of that town.

Sufficient hearings will be held to allow the appropriate municipal panel to reach conclusions on compliance with all standards of these Bylaws. At the first hearing, all attendees will be advised that participation in the hearing is necessary to retain any appeal rights. Testimony at hearings may be required to be under oath. The appropriate municipal panel will keep a record of the hearing, the name and address of any participants and the nature of their participation, and all evidence and testimony submitted.

If, during any hearing, additional information is needed, the hearing may be recessed to a later date and time specified at the hearing without requiring new notice, or if it is not known when such information shall be ready, the hearing shall be closed until the Applicant notifies the clerk of the panel that the additional information requested is ready. If the first hearing is closed and any additional hearings are needed, the notice requirements above apply.

Any decision shall be sent by certified mail to the Applicant, Appellant and other parties in accordance with current Vermont statutes.

**9.5 Appeals to Environmental Court.** An interested person who has participated in a proceeding before the Development Review Board may appeal the Board's decision to the Vermont Environmental Court in accordance with current Vermont statutes. Participation in a proceeding shall consist of offering, through oral or written testimony, evidence or statement of concern related to the subject of the proceeding. In the event that a notice of appeal is properly filed, any permit, approval, or action shall not take effect until final adjudication of said appeal.

**9.6 Access.** All new accesses onto a town highway, or changes to an existing access, require an access permit from the Selectboard. All new accesses onto a state highway, or changes to an existing access, require an access permit from Vermont Agency of Transportation. These permits are separate from these Bylaws. New rights-of-way are regulated under these Bylaws and shall be no less than thirty (30) feet in width or greater if required by town policies or standards, and no greater than 12% slope, or less if required by town policies or standards, and shall meet any requirements under 5.7.4.

**9.7 Enforcement and Penalties.** As specified in Section 4470 of the Act, the Town shall enforce all decisions of the LUA and the Development Review Board. The Administrator, upon reasonable indication that a violation of these Bylaws has occurred, shall contact the alleged violator to review any development in progress and the relevant provisions of these Bylaws. In the case of a violation, the LUA shall institute enforcement action as authorized in Section 4452 of the Act, but only after the alleged offender has had at least seven (7) days notice, by certified mail or hand delivery, that a violation exists. The notice shall state that a violation is believed to exist and that the alleged offender has seven (7) days to remedy the violation or appeal the notice. If the violation is not remedied within seven (7) days of notice, or appealed, the Administrator shall file a copy of the notice of alleged violation in the municipal land use permit files, and with the Town Clerk for filing in the land records, and shall also mail a copy to the Development Review Board and Selectboard.

Any person who violates any of the provisions of these Bylaws or of any permit issued under them shall correct the violation and may be fined not more than \$100 for each offense, with each day that a violation continues following notification constituting a separate offense. Nothing herein contained shall be deemed to exclude any legal or equitable remedy provided in the Act as presently enacted and hereinafter amended, to restrain, correct, or prevent any violations of these Bylaws or to prosecute violators.

## **ARTICLE 10 - DEFINITIONS**

Words, phrases, and terms that are not defined within the text of the Bylaws, the Act, or below shall have their usual and customary meaning, except where the context clearly indicates a different meaning. Any interpretation of words not defined herein by the LUA may be appealed to the Development Review Board. In such cases, the Board shall base its ruling upon the following definitions, the Act, and the need for reasonable and effective implementation of these Bylaws.

The words and terms used shall be construed as follows:

- a. the particular controls the general;
- b. the present tense includes the future tense;
- c. words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary;
- d. the phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"

- e. the words "shall," "must" and "will" are mandatory; the words "may" or "should" are permissive; and
- f. the word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Many items are defined below, but this does not necessarily mean they will be regulated under these Bylaws. Please refer to Section 2.2 for the types of development that are not regulated.

Access Right-of-Way: A deeded vehicular access as shown on a subdivision plan or survey serving one (1) to five (5) lots. All access rights-of-way shall be at least thirty (30) feet in width, unless a lesser width is approved by the Development Review Board. An access right-of-way serving more than six (6) lots is a private road for purposes of these Bylaws.

Accessory Dwelling Unit: An efficiency or one (1) bedroom apartment that is clearly subordinate to an owner-occupied single family dwelling unit; is within, attached, or near the single family unit; meets all wastewater and water supply rules and permits; does not exceed 30 percent of the total living area of the single family dwelling, or 900 square feet of living area, whichever is less; and meets all setback and parking requirements.

Accessory Structure: A building or structure customarily incidental and subordinate to the principal use or building on a lot and not suitable for habitation. The accessory structure must be located on the same lot as the principal use or building. Examples include garages, storage buildings, and sheds.

Building: A structure having a roof supported by columns or walls intended for shelter or enclosure of persons, animals, or chattel.

Building Supply: An establishment providing lumber and other materials, including tools and supplies to the construction trade.

Change in Use: A change or increase in the scale, intensity, type of activity, hours of operation, or physical setting of the use.

Commercial: A use catering to the public that offers services or goods for consideration, but is not primarily manufacturing, warehousing, or a trucking terminal.

Creation of a New Development: The division of a parcel into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; any mining, excavation or fill; the construction of a road or utility; and any change in the use of any building or other structure, or land or extension or use of land. Not all development is regulated under these Bylaws. See Section 2.2 for exemptions.

Development Review Board (Development Review Board): A local body as authorized under 24 VSA Chapter 117.

Driveway: Any private vehicular passageway from a public road serving one principal structure or dwelling unit.

Dwelling, Accessory: See Accessory Dwelling Unit.

Dwelling, Multiple-Unit: See Multiple-Unit Dwelling.

Dwelling, Single-Unit: See Single-Unit Dwelling

Dwelling, Two-Unit: See Two-Unit Dwelling

Dwelling Unit: A private residential building or part thereof with living quarters for one (1) household, including provisions and facilities for food preparation, sleeping and sanitation. There shall be no regulatory distinction made between modular, mobile or site-built homes.

Excavation: The removal or movement of earthen or stone material on or from a lot by machinery.

Farm Structure: A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation.

Fence: Except as is incidental to an accepted agricultural practice, any structure or earth berm which has the effect of creating a barrier to visibility or access.

Fill: Earthen or stone material placed on the ground.

Footprint: The outer horizontal boundaries of the structure's limits, including decks.

Formula Business: A business that is required by contractual or other arrangement to maintain any of the following: standardized services, décor, uniforms, architecture, signs, or other similar features. This shall include but not be limited to retail sales and service, visitor accommodations, and wholesale and industrial operations.

Front Setback: The shortest allowed distance from the edge of the public or private road right-of-way to the nearest portion of the structure's footprint. When the right-of-way is not easily discernible, the edge shall be deemed to be half of the recorded right-of-way's width from the centerline of the traveled road.

Governmental Functions: Public buildings or uses typically associated with local, state or federal government entities or purposes.

Habitable: Intended for use as living quarters.

Home Occupation: A business use that is conducted within less than 50% of the floor area of a dwelling and/or accessory building, which is clearly secondary to the dwelling's use as living quarters, and which is customary in residential areas and does not have an undue adverse effect on the character of the neighborhood.

For the purposes of these Bylaws, to be defined as a home occupation, the operator of the business must reside on the premises and only two (2) other on site employees are allowed. Parking spaces for employees are required, and at least two (2) public spaces are required if the business caters to the public. Permanent outdoor storage or display is prohibited. Signs may be no larger than six (6) square feet and may not be internally or externally lit. Examples of home occupations include, but are not limited to: home office, antique shop, repair shop, hairdresser, catering service, and studio. Home occupations must comply with all general standards in 3.4 and the specific standards in 5.8 20-22.

Home Business: A commercial activity, meeting the definition of home occupation, except that no more than five (5) total employees may work on site and five (5) additional employees may routinely visit the home business. There is no limit to the number of off-site employees associated with the business. Outdoor storage of materials and items for sale are allowed provided that they are not placed within any setbacks and are 50' from town roads and places of public congregation as may be required by the Development Review Board. Examples include, but are not limited to: contractor's yards, services, auto repair, and lumber or firewood operations.

Industry: A use that is primarily manufacturing or processing, including landfill, and not generally catering to the public.

Lot Area: The total land area within the boundaries of a lot.

Land Subdivision: The dividing of a parcel of land by sale, gift, lease, mortgage foreclosure, and court ordered partition, or the filing of a subdivision plat in the Hartland Land Records where the division results in two (2) or more lots within the bounds of the original parcel.

LUA (LUA): A person, or his/her acting replacement, who is in charge of the administration of these Bylaws and who is performing the duties assigned to a LUA in 24 VSA chapter 117.

Large Residential Structure: A single unit residential structure over 5000 square feet in usable floor area, including any associated non-agricultural structures.

Light Industrial: Industry that takes place inside buildings of less than 10,000 square feet and are of such a nature that its impacts, including lighting, noise, and odor, are compatible with residential uses.

Lot, creation: Any subdivision, except as exempted under 6.3.

Lot Frontage: The distance along the lot, measured along the property boundary along the edge of a public or private road. Corner lots with frontage on more than one (1) public road shall be measured with the frontage on all such sides. Lots with frontage on private and public roads shall be measured along public roads. On lots where there is only frontage along/to an access right-of-way (see definition) there is no minimum required lot frontage beyond 30 feet, but lots shall need a lot width no less than the frontage requirement.

Lot Line: A line of record bounding one (1) lot from an adjoining lot or from a town or state highway right-of-way, waterbody or railroad line.

Lot Width: For lots with lot frontage on a public or private road, it is the width of the lot measured parallel to the lot frontage at the minimum setback distance. For lots accessed only by a right-of-way, it is the width of the lot at the minimum setback distance along the side accessed by the right-of-way.

Minor Subdivision: The division of a parcel existing on the effective date of this Bylaw into no more than three (3) lots, except where such subdivision is specifically exempted under 6.3 and 3.5 and except where said subdivision requires the construction of a new road or roads. The subsequent division, revision, or modification of a duly recorded plat which results in six (6) or more lots from the original parcel shall be reviewed as a major subdivision.

Major Subdivision: The division of a parcel existing on the effective date of this Bylaw into four (4) or more lots. Any subdivision requiring the creation of a new road or road shall be considered a major subdivision.

Maximum Lot Coverage: The percentage of surface area of the lot covered by impervious surfaces, including roofed structures, and parking or roads (paved or gravel).

Mixed Use: A building or lot containing more than one (1) permitted or conditional use in the district, where each use would be a principal use if located separately.

Mobile home park: Three (3) or more mobile homes on an undivided lot.

Mobile home: Synonymous with manufactured home. A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles, travel trailers or a sectional prefabricated house.

Multiple Unit Dwelling: A single building having three (3) or more dwelling units.

Non-conformity: A use, lot or structure lawfully established but not in conformance with these Bylaws.

Office: Office use, which may be part of a larger building.

Outdoor Recreation: A parcel containing including internal driveways and parking areas, and structures, equipment and/or manmade improvements primarily for the outdoor conduct of teaching sports, leisure time activities, and other customary and usually participatory recreational activities including, but not limited to, stadium, tennis courts, golf courses, athletic fields, climbing walls, skating rinks, swimming pools and trails. Structures under 5,000 square feet that are incidental to the use and house related retail, office, showers, concessions, etc are included in this definition.

Parcel: A contiguous area of land under single ownership, not divided by a public highway or a stream greater than ten (10) square miles of drainage area, as defined in accordance with current Vermont statues or which has been identified on a plat approved by the town pursuant to these regulations and duly recorded in the Hartland land records. The "original parcel" is the parcel as it existed on the date of adoption of this bylaw. Parcel is synonymous with lot.

Plat: A map of a parcel of land subject to subdivision review and approval under these Regulations showing boundaries of lots, roads, driveways, rights-of-way, and other features, drawn to scale and suitable for recording in the Hartland Land Records.

Primary Retail: A business whose primary use is the supply of merchandise or wares to the end consumer. Examples include (but are not limited to), supermarkets, dry-goods stores, pharmacies, big box stores, etc.

Principal Structure: A dominant building, generally in terms of size, the use of which is fundamental and superior to any other use of the land or the lot.

Principal Use: A dominant use of any structure(s) when present. If no principal structure is present, the dominant use on a lot is the use superior to any other use of the lot.

Public Road: A highway, street or other way owned by the Town of Hartland or the Vermont Agency of Transportation which exists for vehicular travel. The word "road" shall mean the entire right-of-way.

Private Road: Any private vehicular passageway from a public road serving two or more principal structures or dwelling units

Rear Setback: The shortest distance between the rear lot line and the nearest portion of any structure on that lot.

Restaurant: An establishment whose principal use is the preparation, serving and consumption of food and drink, primarily within the principal building.

Retail: A retail establishment having no more than 2000 square feet of sales floor space.

Road, Private: See Private Road.

Road, Public: See Public Road.

Secondary: A business whose primary use is not retail sales, but contains a retail component that is clearly secondary to the primary use. Examples include (but are not limited to), eye doctor's offices, veterinarian's offices, small engine repair shop, manufacturer's with a small showroom, etc.

Services: The interior provision of services in other than an office setting such as small print shops, electricians, plumbing and heating, contractors, office equipment sales and repair, and repair of vehicles/machinery, with no or limited secondary retail activities on site.

Single Unit Dwelling: A building containing only one (1) dwelling unit, except that the single dwelling unit may also have an accessory dwelling unit within the structure or on the lot.

Small Enterprise: A commercial operation that would qualify for a home occupation or home business except that it is not an owner occupied structure.

Storage/Warehouse: A building and premises used for the purpose of storage, transfer and distribution of raw materials (but not salvage/recycling) or finished goods; including a "self-store" facility with independent enclosed storage spaces, each intended to be rented to individual users who are able to access their space without assistance by the proprietor or manager of the facility. No processing of goods or materials is allowed except for the re-packaging of products for distribution.

Structure: An above grade assembly of materials for occupancy or use, including a building or swimming pool. For the purposes of these Bylaws, however, a fence, doghouse, playhouse, playset, treehouse, or mailbox shall not be considered a structure. When measuring horizontally to the structure for setback purposes, the closest part of the structure, including any decks, and excepting ornamentation, shall be used.

Temporary Storage: Box trailers, storage containers, and other trailers used for storage which are parked in compliance with setbacks and are temporary (not exceeding six (6) consecutive months).

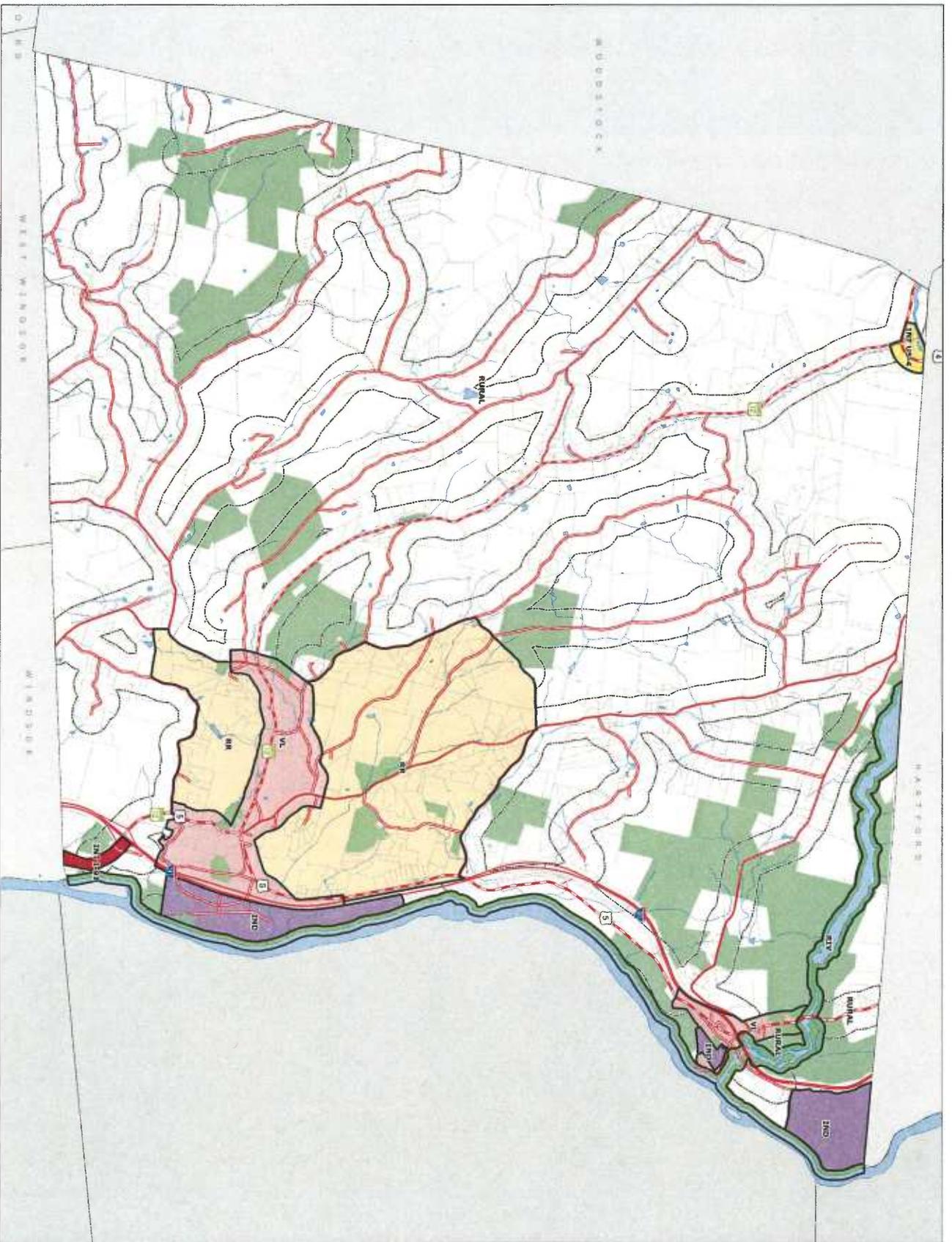
Two Lot Subdivision: Division of a parcel existing on the effective date of the Bylaws into no more than two (2) lots. Such subdivisions may need a Subdivision Approval depending upon the district, but shall always require an Administrative Permit by the LUA.

Two-Unit Dwelling: A building containing only two (2) dwelling units.

Variance: Relief afforded under 24 VSA Section 4469 for only very limited circumstances.

Veterinary Clinic: A building used by members of the veterinary medical profession for the diagnosis and treatment of animal ailments.

**Zoning**  
*Proposed 2012*  
**Hartland, Vermont**  
**Planning Commission**  
**Hearing Draft**



- VT route/TH ds 1
  - TH ds 2
  - TH ds 2 gravel
  - TH ds 3
  - TH ds 3 gravel
  - TH ds 4
  - private
  - US route
  - US Interstate
  - VT forest hwy
- 1:45,000  
 1 inch = 3,750 feet  
 0 0.5 1  
 Miles

- LAND USE DISTRICTS**
- RURAL
  - INT L-91
  - INT US-4
  - IND
  - RIV
  - RR
  - VL
  - conserved lands (for reference)
  - RURAL CU 800' REFERENCE BUFFER

**TWO RIVERS-OTTAWAQUECHEE**  
 REGIONAL COMMISSION  
**GIS Service Center**  
 128 King Farm Rd  
 Woodstock, VT 05091  
 802-457-3188  
[trorc.org](http://trorc.org)

