



# Resolution

TOWN OF MILTON

## Amendments to the Town of Milton Zoning Ordinance

**WHEREAS**, the Milton Selectboard held duly warned public hearings on June 16, 2014 and August 4, 2014 at 6:15 p.m. to consider and address comments regarding the proposed amendments to the Zoning Ordinance as submitted to the Selectboard by the Planning Commission on May 5, 2014 and the Ordinance as revised by the Selectboard on July 7, 2014; and,

**WHEREAS**, the purpose of this set of amendments is to implement the 2013 Comprehensive Plan and correct inconsistencies and misconstrued sections. The proposal to amend several sections of the Milton Zoning Ordinance (main section numbers are listed here): Section 393: Conditional Uses; Section 420: M2 District; Section 560: Height; Section 804: Special Provisions Applicable to the M1, M2, M4, and DB1 Zoning Districts; Section 812: Parking Specifications; Section 817: Pedestrian Circulation; Section 830: Signs; Section 852: General Standards applicable to PUDs; Section 856: PUD-Residential; Section 880: Accessory Apartments; Section 881: Elderly Housing Complex; and Section 1010: Definitions; and,

**THEREFORE, BE IT RESOLVED**, the Milton Selectboard, after consideration of the input received at the June 16, 2014 and August 4, 2014 public hearings, hereby adopts the amendments to the Milton Zoning Ordinance to become effective August 25, 2014.

Dated at Milton, Vermont this 4<sup>th</sup> day of Aug., 2014

### MILTON SELECTBOARD

  
\_\_\_\_\_  
Darren Adams, Chairperson

  
\_\_\_\_\_  
John Gifford, Vice-Chairperson

  
\_\_\_\_\_  
John Bartlett, Clerk

  
\_\_\_\_\_  
Brenda Steady

  
\_\_\_\_\_  
Stewart King

Filed with the Milton Town Clerk's Office this 5<sup>th</sup> day of Aug., 2014

Attest:   
\_\_\_\_\_  
Milton Town Clerk

# **TOWN of MILTON, VERMONT**

## **ZONING REGULATIONS**

Adopted April 22, 1972

Amended (effective dates)

October 21, 1974

June 18, 1979

April 30, 1980

January 4, 1982

June 6, 1982

1985

August 21, 1989

October 22, 1990

August 6, 1991

August, 1992

June 28, 1993

October 11, 1993

March 28, 1994

April 10, 1995

December 23, 1996

May 11, 1998

December 28, 1998

July 30, 2001

January 28, 2002

August 26, 2002

October 20, 2003

June 28, 2004

September 5, 2005

October 11, 2005

November 1, 2005

November 28, 2005

February 6, 2006

April 10, 2006

March 26, 2007

June 28, 2010

June 6, 2011

August 25, 2014

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## **ARTICLE I INTRODUCTORY PROVISIONS**

### **SECTION 100 TITLE AND PURPOSE**

These Regulations, which shall be known and cited as the **Milton Zoning Regulations**, are intended to promote the general welfare of the inhabitants of the Town of Milton, to protect the value of property, to prevent overcrowding, to facilitate provision of public requirements, and to provide for the orderly development in Milton of homes, AGRICULTURE, industry, commerce and recreation. These regulations shall not have the effect of excluding low and moderate income housing from the Town.

The Zoning Regulations classify and guide the USES of land, buildings and STRUCTURES in the Town of Milton in accordance with the *Comprehensive Land Use Plan for the Town of Milton* and the *Vermont Municipal and Regional Planning and Development Act* (Title 24, V.S.A., Chapter 117). The Regulations are designed to implement the purposes and policies set forth in the *Plan* and *Act*.

### **SECTION 110 UNAUTHORIZED DEVELOPMENT OR PROHIBITED USES**

No LAND DEVELOPMENT shall be undertaken or effected except in conformance with the applicable provisions of these Regulations. No land, building or other STRUCTURE shall be used for any purpose except as provided in these Regulations. Any USE not specifically permitted or prohibited in this Ordinance may be considered as a Conditional Use by the Development Review Board and reviewed in accordance with Section 500 of these regulations.

### **SECTION 120 PERMITTED AND CONDITIONAL USES**

Permitted and CONDITIONAL USES for each district of the Town are specified in these Regulations. Both types of USE require a Zoning Permit (commonly called a "Building Permit") and a Certificate of Compliance from the Zoning Administrator as prescribed in Section 900 and 910 below. A Zoning Permit for a CONDITIONAL USE requires prior approval of the Development Review Board, which can only be issued upon a finding of conformance with the requirements indicated in Section 500, and with any additional criteria cited for a specific CONDITIONAL USE within the Zoning Ordinance.

### **SECTION 130 ZONING PERMIT**

In accordance with Section 900 of this Ordinance, no LAND DEVELOPMENT, excavation or construction shall be started on any land parcel or STRUCTURE and no EXPANSION, ALTERATION or change of USE shall be started within any existing STRUCTURE without a Zoning Permit issued by the Zoning Administrator.

No Zoning Permit is required for the following (with the exception of development in the Special Flood Hazard Area which is regulated in Appendix A):

- (1) Routine maintenance and repairs, and structural ALTERATIONS to an existing STRUCTURE which will not result in a change or EXPANSION of USE.
- (2) Construction or placement of one residential accessory structure with an area of not more than 100 square feet and a HEIGHT of not more than 10 feet, which is not on a permanent foundation, and which complies with the provisions of Section 580 provided there are no other exempt accessory structures on the property already.

- (3) Fences.
- (4) Roof mounted solar panels not to extend beyond the roof; and roof mounted wind turbines not to exceed the maximum HEIGHT as defined in Articles III and IV.

#### **SECTION 140 CERTIFICATE OF COMPLIANCE/OCCUPANCY**

In accordance with Section 910 of this Ordinance, all projects for which a Zoning Permit has been issued will require a Certificate of Compliance which documents that all work has been completed in accordance with the Zoning Permit and all other local ordinances and approvals. Only those improvements within the jurisdiction of the Milton Zoning Regulations shall be inspected for the Certificate of Compliance.

No new STRUCTURE, or existing STRUCTURE which has been vacated for the purpose of ALTERATIONS and for which a Zoning Permit has been issued, shall be occupied or used in any way until a Certificate of Occupancy has been issued by the Zoning Administrator. For the purposes of this Ordinance, the Certificate of Compliance shall serve as the Certificate of Occupancy where it is required.

#### **SECTION 150 DIMENSIONAL REQUIREMENTS**

Every USE involving the construction, reconstruction, conversion, structural ALTERATION, relocation or enlargement of a STRUCTURE must comply with the minimum LOT AREA, FRONTAGE, SETBACK areas and all other requirements specified in these Regulations for the district in which the USE occurs.

#### **SECTION 160 GENERAL STANDARDS**

The following standards shall apply:

- (a) BUILDING COVERAGE Standards: Building coverage applies to single-family, duplex and three-unit residences. Lot coverage shall not apply to these uses.
- (b) LOT COVERAGE Standards: Lot coverage applies to all uses other than single-family, duplex and three-unit residences. The standard for those uses shall vary by district as specified in the Dimensional Standards. Building coverage shall not apply to these uses.

The DRB may waive inclusion of sidewalks and bicycle paths under lot coverage if it determines that such sidewalk/paths will primarily serve as part of a larger transportation network rather than provide on-site circulation.

The DRB may approve higher lot coverage as part of a PLANNED UNIT DEVELOPMENT if an applicant provides equivalent green space and/or landscaped area off-site within the MIXED USE Zoning Districts.

- (c) LIKE KIND QUALITY Standard: "Like kind quality" is a suitable standard in historic areas or other established neighborhoods. In emerging areas and in locations where future plans differ from existing development, quality of a development may be judged in relation to the standards of an approved Town Core Master Plan.

**SECTION 170 ADDITIONAL REQUIREMENTS**

The following requirements and reviews shall be fulfilled by all applicants before a Zoning Permit is granted, unless specifically exempted in this Ordinance:

- (1) Sewage Disposal - Section 570
- (2) Roads and Drives - Section 590
- (3) Site Plan Review - Section 800

**SECTION 180 FLOODPLAIN REGULATIONS**

Appendix A of the Milton Zoning Regulations: *Inundation Hazard Area Regulations* shall take precedence over all sections within the main Articles of the Milton Zoning Regulations for flood hazard areas as described in Section IV of Appendix A.



**ARTICLE II  
ZONING DISTRICTS**

**SECTION 200 DESIGNATION OF DISTRICTS**

The Town of Milton is divided into the following ZONING DISTRICTS as shown on the ZONING MAP:

(1) Downtown Districts:

DB1 Downtown Business District

(2) Residential Districts:

R1 Old Towne Residential  
R2 Medium Density Residential  
R3 Low Density Residential  
R4 Transitional Residential  
R5 Agricultural/Rural Residential  
R6 Shoreland Residential  
R7 Beaverbrook Residential

(3) Commercial Districts:

C1 Interstate Commercial

(4) Industrial Districts:

I1 Light Industrial  
I2 General Industrial  
I3 Industrial Conservation

(5) MIXED USE Districts:

M1 Milton Crossroads Marketplace Center  
M2 Milton Crossroads Marketplace West  
M3 Milton Crossroads Marketplace Municipal/Recreation  
M4 Checkerberry  
M5 Old Towne Residential/Commercial  
M6 Main Street

(6) Natural Resource Districts:

FH Flood Hazard  
FC Forestry/Conservation/Scenic Ridgeline

**SECTION 210 ZONING MAP**

The location and boundaries of the ZONING DISTRICTS are established on the ZONING MAP, which is on display in the Planning and Zoning Office. The Milton Zoning Map includes the boundaries of the Flood Hazard Zoning District for reference but the boundaries of the District on the Zoning Map shall not take precedence over Section IV: Lands to Which these Regulations Apply in the *Inundation Hazard Area Regulations* (found in Appendix A of the Milton Zoning Regulations). Reduced copies of the ZONING MAP are attached to copies of these Regulations.

**SECTION 220 INTERPRETATION OF BOUNDARIES**

Where uncertainty exists as to the boundary of any district the following rules shall apply:

- 220.1 Where a boundary appears to approximately follow the line of a road, river or stream, the boundary follows the center line of such road, river or stream. Where a boundary appears to approximately follow any property, lot line, or Town limit, the boundary follows the line existing when these Regulations were adopted or when official amendments were made to a boundary.
- 220.2 Boundaries indicated as parallel to or extensions of features indicated in Section 220.1 shall be so construed.
- 220.3 Any uncertainty as to the boundaries of a ZONING DISTRICT shall be determined in accordance with the above subsections by the Zoning Administrator, and the decision of the Zoning Administrator may be appealed to the Development Review Board pursuant to the *Vermont Municipal and Regional Planning and Development Act*. For lots in two zones refer to Section 670 of these Regulations.

## **ARTICLES III AND IV DISTRICT REGULATIONS**

### **SECTION 300 OLD TOWNE RESIDENTIAL (R1) DISTRICT**

#### **SECTION 301 Purpose**

Residential USES should continue to characterize this ZONING DISTRICT. Owner-occupied buildings are encouraged and may contain up to three (3) DWELLING UNITS. However, these owner-occupied triplexes are only to be used as an adaptive reuse measure, therefore owner-occupied triplexes are only allowed within a residential buildings existing footprint and square footage that was in existence on or before December 21, 2006. Homeowners may also take advantage of flexible HOME OCCUPATION provisions.

#### **SECTION 302 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) DUPLEXES
- (3) TRIPLEXES - OWNER OCCUPIED (only within the existing buildings footprint and square footage that was in existence on or before December 21, 2006.)
- (4) PLANNED UNIT DEVELOPMENT-Residential (minimum of 5 contiguous acres required.)
- (5) ELDERLY HOUSING COMPLEX
- (6) BED & BREAKFASTS
- (7) PRIVATE/PUBLIC FACILITY
- (8) AGRICULTURE
- (9) FORESTRY

#### **SECTION 303 Conditional Uses**

- (1) OUTDOOR RECREATION

#### **SECTION 304 Dimensional Requirements**

- |     |                           |                |
|-----|---------------------------|----------------|
| (1) | Minimum LOT AREA          | 10,000 sq. ft. |
| (2) | Minimum Road FRONTAGE     | 80 ft.         |
| (3) | Minimum FRONT SETBACK     | 20 ft.         |
| (4) | Minimum SIDE SETBACK      | 10 ft.         |
| (5) | Minimum REAR SETBACK      | 10 ft.         |
| (6) | Maximum BUILDING COVERAGE | 40%            |
| (7) | Maximum LOT COVERAGE      | 50%            |
| (8) | Maximum building stories  | 3 STORIES      |

### **SECTION 310 MEDIUM DENSITY RESIDENTIAL (R2) DISTRICT**

#### **SECTION 311 Purpose**

The purpose of this area is to allow for medium density development in an area close to the core and within easy access to community services and facilities which has already experienced significant residential development. Due to the severe environmental limitations in parts of this area all development will be

carefully reviewed for compatibility with the specific site's development capability.

**SECTION 312 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) AGRICULTURE
- (3) FORESTRY
- (4) PLANNED UNIT DEVELOPMENTS-Residential

**SECTION 313 Conditional Uses**

- (1) DUPLEXES
- (2) PRIVATE/PUBLIC FACILITIES
- (3) OUTDOOR RECREATION

**SECTION 314 Residential Dimensional Requirements**

- |     |                           |               |                |
|-----|---------------------------|---------------|----------------|
| (1) | Minimum LOT AREA          | Single FAMILY | 40,000 sq. ft. |
|     |                           | DUPLEX        | 80,000 sq. ft. |
| (2) | Minimum Road FRONTAGE     | Single FAMILY | 200 ft.        |
|     |                           | DUPLEX        | 300 ft.        |
| (3) | Minimum FRONT SETBACK     |               | 35 ft.         |
| (4) | Minimum SIDE SETBACK      |               | 15 ft.         |
| (5) | Minimum REAR SETBACK      |               | 15 ft.         |
| (6) | Maximum BUILDING COVERAGE |               | 40%            |
| (7) | Maximum LOT COVERAGE      |               | 15%            |

**SECTION 315 Non-Residential Dimensional Requirements**

- |     |                       |                |
|-----|-----------------------|----------------|
| (1) | Minimum LOT AREA      | 40,000 sq. ft. |
| (2) | Minimum Road FRONTAGE | 200 ft.        |
| (3) | Minimum FRONT SETBACK | 35 ft.         |
| (4) | Minimum SIDE SETBACK  | 15 ft.         |
| (5) | Minimum REAR SETBACK  | 15 ft.         |
| (6) | Maximum LOT COVERAGE  | 15%            |

**SECTION 320 LOW DENSITY RESIDENTIAL (R3) DISTRICT**

**SECTION 321 Purpose**

The purpose of this area is to allow for low density clustered residential development. Due to severe environmental limitations in parts of this area all development will be carefully reviewed for compatibility with the specific site's development capability.

**SECTION 322 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) AGRICULTURE
- (3) FORESTRY

- (4) PLANNED UNIT DEVELOPMENTS-Residential (Major only)
- (5) PUBLIC or PRIVATE WAREHOUSING within agricultural STRUCTURES
- (6) OUTDOOR RECREATION

**SECTION 323 Conditional Uses**

- (1) PRIVATE/PUBLIC FACILITIES
- (2) EARTH AND MINERAL EXCAVATION
- (3) Vacation trailer camps
- (4) COMMERCIAL PLANT NURSERIES, GREENHOUSES, AND LANDSCAPING SERVICES

**SECTION 324 Residential Dimensional Requirements**

- (1) Minimum LOT AREA 120,000 sq. ft.
- (2) Minimum Road FRONTAGE 300 ft.
- (3) Minimum FRONT SETBACK 35 ft.
- (4) Minimum SIDE SETBACK 35 ft.
- (5) Minimum REAR SETBACK 35 ft.
- (6) Maximum BUILDING COVERAGE 40%
- (7) Maximum LOT COVERAGE 15%

**SECTION 325 Non-Residential Dimensional Requirements**

- (1) Minimum LOT AREA 40,000 sq. ft.
- (2) Minimum Road FRONTAGE 200 ft.
- (3) Minimum FRONT SETBACK 35 ft.
- (4) Minimum SIDE SETBACK 35 ft.
- (5) Minimum REAR SETBACK 35 ft.
- (6) Maximum LOT COVERAGE 15%

**SECTION 330 TRANSITIONAL RESIDENTIAL (R4) DISTRICT**

**SECTION 331 Purpose**

The purpose of this area is to provide strong incentives to encourage the preservation of agricultural lands through the clustering of LAND DEVELOPMENT.

**SECTION 332 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) AGRICULTURE
- (3) FORESTRY
- (4) PLANNED UNIT DEVELOPMENTS-Residential (Minor only)
- (5) PUBLIC or PRIVATE WAREHOUSING within agricultural STRUCTURES
- (6) OUTDOOR RECREATION

**SECTION 333 Conditional Uses**

- (1) PRIVATE/PUBLIC FACILITIES

- (2) EARTH AND MINERAL EXCAVATION
- (3) Vacation trailer camps
- (4) COMMERCIAL PLANT NURSERIES, GREENHOUSES, AND LANDSCAPING SERVICES
- (5) BED AND BREAKFAST
- (6) PLANNED UNIT DEVELOPMENTS-Residential (Major only)

**SECTION 334 Residential Dimensional Requirements**

- |     |                           |                 |
|-----|---------------------------|-----------------|
| (1) | Minimum LOT AREA          | 400,000 sq. ft. |
| (2) | Minimum Road FRONTAGE     | 400 ft.         |
| (3) | Minimum FRONT SETBACK     | 35 ft.          |
| (4) | Minimum SIDE SETBACK      | 50 ft.          |
| (5) | Minimum REAR SETBACK      | 50 ft.          |
| (6) | Maximum BUILDING COVERAGE | 40%             |
| (7) | Maximum LOT COVERAGE      | 15%             |

**SECTION 335 Non-Residential Dimensional Requirements**

- |     |                       |                |
|-----|-----------------------|----------------|
| (1) | Minimum LOT AREA      | 40,000 sq. ft. |
| (2) | Minimum Road FRONTAGE | 200 ft.        |
| (3) | Minimum FRONT SETBACK | 35 ft.         |
| (4) | Minimum SIDE SETBACK  | 35 ft.         |
| (5) | Minimum REAR SETBACK  | 35 ft.         |
| (6) | Maximum LOT COVERAGE  | 15%            |

**SECTION 336 Planned Unit Developments-Residential**

If a PLANNED UNIT DEVELOPMENT-Residential (major) is proposed within this district, the Development Review Board may authorize a maximum number of DWELLING UNITS not to exceed an overall density of three (3) units per ten (10) developable ACRES.

**SECTION 340 AGRICULTURAL/RURAL RESIDENTIAL (R5) DISTRICT**

**SECTION 341 Purpose**

The purpose of this area is to provide for continued AGRICULTURE, FORESTRY and open space USES together with compatible low density residential development. Large portions of the Town have been included in this area because of a combination of circumstances, including: high agricultural potential, distance from community facilities, often severe limitations to development, and natural patterns of dispersed development.

**SECTION 342 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) AGRICULTURE
- (3) FORESTRY
- (4) PLANNED UNIT DEVELOPMENTS-Residential
- (5) PUBLIC or PRIVATE WAREHOUSING within agricultural STRUCTURES
- (6) OUTDOOR RECREATION

**SECTION 343 Conditional Uses**

- (1) NEIGHBORHOOD CONVENIENCE STORES
- (2) EARTH AND MINERAL EXCAVATION
- (3) BED AND BREAKFAST
- (4) PRIVATE/PUBLIC FACILITIES
- (5) KENNELS
- (6) Vacation trailer camps
- (7) COMMERCIAL PLANT NURSERIES, GREENHOUSES, AND LANDSCAPING SERVICES
- (8) SLAUGHTER HOUSE

**SECTION 344 Residential Dimensional Requirements**

- (1) Minimum LOT AREA 400,000 sq. ft.
- (2) Minimum Road FRONTAGE 400 ft.
- (3) Minimum FRONT SETBACK 35 ft.
- (4) Minimum SIDE SETBACK 50 ft.
- (5) Minimum REAR SETBACK 50 ft.
- (6) Maximum BUILDING COVERAGE 40%
- (7) Maximum LOT COVERAGE 15%

**SECTION 345 Non-Residential Dimensional Requirements**

- (1) Minimum LOT AREA 40,000 sq. ft.
- (2) Minimum Road FRONTAGE 200 ft.
- (3) Minimum FRONT SETBACK 35 ft.
- (4) Minimum SIDE SETBACK 35 ft.
- (5) Minimum REAR SETBACK 35 ft.
- (6) Maximum LOT COVERAGE 15%

**SECTION 350 SHORELAND RESIDENTIAL (R6) DISTRICT**

**SECTION 351 Purpose**

The purpose of this area is to protect and preserve sensitive shoreland areas and water resources from unsuitable development, to maintain a high standard of quality for all permitted development and to encourage open space along the SHORELINE.

**SECTION 352 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) AGRICULTURE
- (3) PLANNED UNIT DEVELOPMENTS-Residential

**SECTION 353 Conditional Uses**

- (1) BED AND BREAKFAST
- (2) FORESTRY
- (3) OUTDOOR RECREATION

- (4) Vacation trailer camps
- (5) MARINAS
- (6) NEIGHBORHOOD CONVENIENCE STORES
- (7) Docks, Stairs and Shoreland Restoration projects provided that the Development Review Board finds that the conditions of Section 500 are met and that the proposed STRUCTURE is necessary for the operation of the PRINCIPAL USE.

**SECTION 354 Residential Development Requirements**

(1)	Minimum LOT AREA	100,000 sq. ft.
(2)	Minimum Road or SHORELINE FRONTAGE	200 ft.
(3)	Minimum Front Road SETBACK	35 ft.
(4)	Minimum SHORELINE SETBACK	50 ft.
(5)	Minimum SIDE SETBACK	35 ft.
(6)	Minimum REAR SETBACK	35 ft.
(7)	Maximum BUILDING COVERAGE	40%
(8)	Maximum LOT COVERAGE	10%

**SECTION 355 Non-Residential Dimensional Requirements**

(1)	Minimum LOT AREA	40,000 sq. ft.
(2)	Minimum Road or SHORELINE FRONTAGE	200 ft.
(3)	Minimum Front Road SETBACK	35 ft.
(4)	Minimum SHORELINE SETBACK	50 ft.
(5)	Minimum SIDE SETBACK	35 ft.
(6)	Minimum REAR SETBACK	35 ft.
(7)	Maximum LOT COVERAGE	25%

**SECTION 356 Shoreland Ground Cover**

- 356.1 No more than 25% of existing trees and/or ground cover shall be removed along the SHORELINE for a distance of 25 feet from the SHORELINE within a 5 year period.
- 356.2 No more than 35% of existing trees and/or ground cover shall be removed for an additional distance of 125 feet (beyond the no-cut area in 357.1) without Site Plan approval from the Development Review Board within a 5 year period. Erosion and stormwater best management practices must be employed during and after site work and tree clearing.

**SECTION 357 Conversion of Seasonal Dwellings**

Any conversion of a SEASONAL DWELLING to a PERMANENT DWELLING shall be done in compliance with the State Water/Wastewater Rules and **Section 570, Sewage Disposal, and Section 900 and Section 901 of the Zoning Regulations.**



**SECTION 360 BEAVERBROOK RESIDENTIAL (R7) DISTRICT**

**SECTION 361 Purpose**

The purpose of this district is to allow for moderately high density residential development in an area that is linked closely to downtown.

**SECTION 362 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) PLANNED UNIT DEVELOPMENTS-Residential (Major only)
- (3) DUPLEXES
- (4) BED & BREAKFASTS
- (5) FORESTRY

**SECTION 363 Conditional Uses**

- (1) AGRICULTURE
- (2) PRIVATE/PUBLIC FACILITIES
- (3) OUTDOOR RECREATION
- (4) TRIPLEXES – OWNER OCCUPIED
- (5) ELDERLY HOUSING COMPLEX

**SECTION 364 Dimensional Requirements**

- |     |                           |                |
|-----|---------------------------|----------------|
| (1) | Minimum LOT AREA          | 40,000 sq. ft. |
| (2) | Minimum Road FRONTAGE     | 125 ft.        |
| (3) | Minimum FRONT SETBACK     | 20 ft.         |
| (4) | Minimum SIDE SETBACK      | 15 ft.         |
| (5) | Minimum REAR SETBACK      | 15 ft.         |
| (6) | Maximum BUILDING COVERAGE | 40%            |
| (7) | Maximum LOT COVERAGE      | 25%            |

**SECTION 370 INTERSTATE COMMERCIAL (C1) DISTRICT**

**SECTION 371 Purpose**

The purpose of this area is to reserve space for the provision of services to users of the proposed Milton Interstate Access.

**SECTION 372 Permitted Uses**

- (1) AGRICULTURE
- (2) FORESTRY

**SECTION 373 Conditional Uses**

- (1) MOTELS with or without a RESTAURANT
- (2) TRAVELER SERVICES

**SECTION 374 Dimensional Requirements**

(1)	Minimum LOT AREA	40,000 sq. ft.
(2)	Minimum Road FRONTAGE	200 ft.
(3)	Minimum FRONT SETBACK	50 ft.
(4)	Minimum SIDE SETBACK	35 ft.
(5)	Minimum REAR SETBACK	35 ft.
(6)	Maximum LOT COVERAGE	15%

**SECTION 380 LIGHT INDUSTRIAL (I1) DISTRICT**

**SECTION 381 Purpose**

The purpose of this area is to provide adequate space for light industrial and wholesaling USES. PRINCIPAL USES include: research and development, WHOLESale distribution, ASSEMBLY, and other USES which will not require excessive space, and will not create noise, odors, dust, or other local disturbances.

**SECTION 382 Permitted Uses**

- (1) ENCLOSED LIGHT MANUFACTURING and ASSEMBLY
- (2) RESEARCH AND DEVELOPMENT LABORATORIES
- (3) ENCLOSED WHOLESale
- (4) PUBLIC WAREHOUSING
- (5) PRIVATE WAREHOUSING
- (6) DISTRIBUTING
- (7) PLANNED UNIT DEVELOPMENTS-Industrial
- (8) TRANSPORTATION FACILITIES

**SECTION 383 Conditional Uses**

- (1) PRIVATE/PUBLIC FACILITIES
- (2) PERSONAL SERVICES
- (3) GENERAL/MEDICAL OFFICE

**SECTION 384 Dimensional Requirements**

(1)	Minimum LOT AREA	20,000 sq. ft.
(2)	Minimum Road FRONTAGE	100 ft.
(3)	Minimum FRONT SETBACK	25 ft.
(4)	Minimum SIDE SETBACK	25 ft.
(5)	Minimum REAR SETBACK	25 ft.
(6)	Maximum LOT COVERAGE	50%

**SECTION 390 GENERAL INDUSTRIAL (I2) DISTRICT**

**SECTION 391 Purpose**

The purpose of this area is to provide adequate space for industrial uses, specified large scale retail uses which require room for EXPANSION, and space for OUTDOOR STORAGE. These areas are not intended for businesses that will create a high level of retail traffic. **PLANNED UNIT DEVELOPMENTS will be encouraged to CLUSTER development in order to preserve and maintain agriculture, open space, natural areas, and FORESTRY lands, and maintain separation from residential neighborhoods.**

**SECTION 392 Permitted Uses**

- (1) MANUFACTURING and associated RETAIL SALES with a significant component of goods sold being produced on the premises
- (2) RESEARCH AND DEVELOPMENT LABORATORIES
- (3) ENCLOSED PUBLIC WAREHOUSING
- (4) ENCLOSED PRIVATE WAREHOUSING
- (5) ENCLOSED OUTDOOR STORAGE
- (6) TRUCKING and WHOLESale DISTRIBUTION
- (7) CONSTRUCTION AND AGRICULTURAL EQUIPMENT SALES with associated service and repair
- (8) RETAIL SALES of automobiles, trucks, busses, boats/marina, and large equipment with associated service and repair
- (9) RETAIL SALES and WHOLESale of Building Home Supply
- (10) LUMBERYARDS
- (11) MOBILE/MANUFACTURED HOME RETAIL SALES & Rental
- (12) COMMERCIAL PLANT NURSERIES, GREENHOUSES & LANDSCAPING SERVICES
- (13) DRY CLEANING PLANT without walk-in business
- (14) ANIMAL SHELTER
- (15) PRINTING FACILITY
- (16) Transit Station including Train and Bus stations. Also automobile parking garages or lots not located on a lot on which there is another principle use to which the parking is related
- (17) TRUCK STOP
- (18) AGRICULTURE
- (19) FORESTRY
- (20) PLANNED UNIT DEVELOPMENTS-Industrial
- (21) PLANNED UNIT DEVELOPMENTS-Commercial (limited to the uses listed under Section 392 and 393).
- (22) CHILD DAY CARE FACILITY

The USES noted below in Sections 392 (23) and (24) and the CONDITIONAL USES as noted in Section 393 "CONDITIONAL USES" may only be included in PLANNED UNIT DEVELOPMENTS-Industrial;

- (23) INDOOR RECREATION
- (24) OUTDOOR RECREATION
- (25) DISTRIBUTING

**SECTION 393 Conditional Uses**

- (1) PERSONAL SERVICES directly serving industries therein

- (2) GENERAL/MEDICAL OFFICE directly serving industries therein
- (3) Public and private UTILITIES AND UTILITY OFFICES
- (4) STATE FACILITIES
- (5) PRIVATE/PUBLIC FACILITIES directly serving industries therein
- (6) EARTH AND MINERAL EXCAVATION
- (7) RECYCLING YARD (see Section 890 for specific review criteria)

**SECTION 394 Dimensional Requirements**

(1)	Minimum LOT AREA	100,000 sq. ft.
(2)	Minimum Road FRONTAGE	200 ft.
(3)	Minimum FRONT SETBACK	50 ft.
(4)	Minimum SIDE SETBACK	35 ft.
(5)	Minimum REAR SETBACK	35 ft.
(6)	Maximum LOT COVERAGE	75%

**SECTION 400 INDUSTRIAL CONSERVATION (I3) DISTRICT**

**SECTION 401 Purpose**

The purpose of this area is to allow for an environmentally-sensitive planned industrial park, which would permit the clustering of industries and ACCESSORY USES on large lots, while providing adequate space for EXPANSION. Therefore, the key to the development of this area will be the addition of PLANNED UNIT DEVELOPMENTS in this ZONING DISTRICT. USES will be encouraged to CLUSTER their development in order to preserve and maintain agricultural, open space, natural areas and FORESTRY lands, maintain separation from residential neighborhoods in order to minimize impacts, facilitate the adequate and economical provisions of STREETS and utilities, encourage efficient construction, minimize access points to State and local highways, and preserve scenic views and viewsheds wherever possible.

**SECTION 402 Permitted Uses**

- (1) PLANNED UNIT DEVELOPMENT-Industrial to include the following USES:
  - (a) ENCLOSED MANUFACTURING and ASSEMBLY
  - (b) RESEARCH AND DEVELOPMENT LABORATORIES serviced by Town sewer
  - (c) ENCLOSED WHOLESALE
  - (d) PRIVATE WAREHOUSING
  - (e) ENCLOSED OUTDOOR STORAGE
  - (f) TRUCKING
  - (g) DISTRIBUTING
  - (h) PERSONAL SERVICES
  - (I) GENERAL/MEDICAL OFFICE
  - (j) EMPLOYEE TRAINING FACILITY
  - (k) ACCESSORY USEs to a PRINCIPAL USE to include:
    - CHILD DEVELOPMENT CENTER
    - RESTAURANT
    - MOTEL/Guest Facilities
    - CLINIC
    - TRANSPORTATION FACILITIES

The permitted USES noted below in Sections 402(2) through (5), and the CONDITIONAL USES as noted in Section 403 "CONDITIONAL USES" may also be included in PLANNED UNIT DEVELOPMENT-Industrial:

- (2) OUTDOOR RECREATION
- (3) INDOOR RECREATION
- (4) AGRICULTURE
- (5) FORESTRY

**SECTION 403 Conditional Uses**

- (1) Public and private UTILITIES AND UTILITY OFFICES
- (2) STATE FACILITIES
- (3) PRIVATE/PUBLIC FACILITIES
- (4) Limited retail, as an ACCESSORY USE, of items manufactured or assembled on the premises, provided that the retail sales area (e.g., showroom) does not exceed 10% or 2,000 sq. ft., whichever is the lessor, of the total GROSS FLOOR AREA of the premises in which the items are manufactured or assembled. The retail sales area shall be indicated on the Site Plan submitted in accordance with Section 800 "Site Plan Review".
- (5) RENEWABLE ENERGY RESOURCES

**SECTION 404 Dimensional Requirements**

- (1) Minimum LOT AREA 200,000 sq. ft.
  - (2) Minimum Road FRONTAGE 200 ft.
  - (3) Minimum FRONT SETBACK 35 ft.
  - (4) Minimum SIDE SETBACK 20 ft.
  - (5) Minimum SIDE SETBACK for shared DRIVEWAYS 0 ft.  
and/or parking areas only
  - (6) Minimum REAR SETBACK 20 ft.
  - (7) Minimum SHORELINE SETBACK 50 ft.
  - (8) Maximum LOT COVERAGE 40%
  - (9) Maximum building HEIGHT 70 ft.
- For any building above four (4) stories – additional review standards, including increased setbacks, may apply to ensure LIKE KIND QUALITY.

**SECTION 405 Shoreland Ground Cover**

- 406.1 No more than 25% of existing trees and/or ground cover shall be removed along the SHORELINE for a distance of 25 feet from the SHORELINE within a 5 year period.
- 406.2 No more than 35% of existing trees and/or ground cover shall be removed for an additional distance of 125 feet beyond the no-cut area noted in Section 406.1 (beyond the no-cut area in 406.1) without Site Plan approval from the Development Review Board within a 5-year period. Erosion and stormwater best management practices must be employed during and after site work and tree clearing.

**SECTION 410 MILTON CROSSROADS MARKETPLACE CENTER (M1) DISTRICT**

**SECTION 411 Purpose**

Reflecting its central location within the downtown, the purpose of this district is to allow for the tallest buildings, the highest density, and the greatest extent of MIXED USE including residential, commercial, and some industrial uses. Buildings should be placed close to the sidewalks. Street trees and green belts along sidewalks should be constructed to provide a pedestrian friendly environment.

**SECTION 412 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) DUPLEXES
- (3) MULTIFAMILY DWELLINGS
- (4) PLANNED UNIT DEVELOPMENTS-Residential
- (5) PLANNED UNIT DEVELOPMENTS-Commercial
- (6) PLANNED UNIT DEVELOPMENTS-MIXED USE
- (7) ELDERLY HOUSING COMPLEX
- (8) RETAIL SALES
- (9) PERSONAL SERVICES
- (10) GENERAL/MEDICAL OFFICE
- (11) RESTAURANTS
- (12) RESTAURANTS, FAST FOOD
- (13) BAKERY/DELICATESSEN
- (14) MOTELS
- (15) BED & BREAKFASTS
- (16) INDOOR RECREATION
- (17) PRIVATE/PUBLIC FACILITIES
- (18) AGRICULTURE
- (19) FORESTRY
- (20) Parking Structures
- (21) CHILD DAY CARE FACILITY

**SECTION 413 Conditional Uses**

- (1) ENCLOSED LIGHT MANUFACTURING AND ASSEMBLY
- (2) RESEARCH AND DEVELOPMENT LABORATORIES
- (3) ENCLOSED WHOLESALE
- (4) PRIVATE WAREHOUSING
- (5) DISTRIBUTING
- (6) OUTDOOR RECREATION
- (7) CONSTRUCTION AND AGRICULTURAL EQUIPMENT SALES AND SERVICE

**SECTION 414 Dimensional Requirements**

- (1) Minimum LOT AREA 5,000 sq. ft.
- (2) Minimum Road FRONTAGE 0 ft.
- (3) Minimum FRONT SETBACK 0 to 20 ft.
- (4) Minimum SIDE SETBACK 0 ft.
- (5) Minimum REAR SETBACK 0 ft.

- (6) Maximum BUILDING COVERAGE 40%
- (7) Maximum LOT COVERAGE 80%
- (8) Maximum building stories 5 stories  
For any building above four (4) stories – additional review standards, including increased setbacks, may apply to ensure LIKE KIND QUALITY.
- (9) Maximum building HEIGHT 70 ft.

**SECTION 420 MILTON CROSSROADS MARKETPLACE WEST (M2) DISTRICT**

**SECTION 421 Purpose**

The purpose of this district is to allow a mix of residential and commercial uses, including larger retail buildings. Haydenberry Drive should serve as the primary access to this area. Sidewalks along Route 7 should extend up Haydenberry Drive and throughout all development areas.

**SECTION 422 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) DUPLEXES
- (3) MULTIFAMILY DWELLINGS
- (4) PLANNED UNIT DEVELOPMENTS-Residential
- (5) PLANNED UNIT DEVELOPMENTS-Commercial
- (6) PLANNED UNIT DEVELOPMENTS-MIXED USE
- (7) ELDERLY HOUSING COMPLEX
- (8) RETAIL SALES in a PLANNED UNIT DEVELOPMENT-MIXED USE
- (9) PERSONAL SERVICES in a PLANNED UNIT DEVELOPMENT-MIXED USE
- (10) GENERAL/MEDICAL OFFICE
- (11) RESTAURANTS
- (12) BAKERY/DELICATESSEN
- (13) BED & BREAKFASTS
- (14) PUBLIC/PRIVATE FACILITES in a PLANNED UNIT DEVELOPMENT-MIXED USE
- (15) AGRICULTURE
- (16) FORESTRY
- (17) CHILD DAY CARE FACILITY

**SECTION 423 Conditional Uses**

- (1) COMMERCIAL PLANT NURSURIES, GREENHOUSES, AND LANDSCAPING SERVICES
- (2) OUTDOOR RECREATION
- (3) PERSONAL SERVICES
- (4) PRIVATE/PUBLIC FACILITIES
- (5) Parking Structures
- (6) RESTAURANTS, FAST FOOD
- (7) RETAIL SALES

**SECTION 424 Dimensional Requirements**

- (1) Minimum LOT AREA 7,500 sq. ft.
- (2) Minimum Road FRONTAGE 0 ft.

- (3) Minimum FRONT SETBACK 0 to 20 ft.
  - (4) Minimum SIDE SETBACK 0 ft.
  - (5) Minimum REAR SETBACK 0 ft.
  - (6) Maximum BUILDING COVERAGE 40%
  - (7) Maximum LOT COVERAGE 70%
  - (8) Maximum building stories 4 STORIES
- For any building above three (3) stories – additional review standards, including increased setbacks, may apply to ensure LIKE KIND QUALITY.

**SECTION 430 MILTON CROSSROADS MARKETPLACE MUNICIPAL/RECREATION (M3) DISTRICT**

**SECTION 431 Purpose**

The purpose of this district is to allow for public and recreational facilities.

**SECTION 432 Permitted Uses**

- (1) PUBLIC FACILITIES
- (2) INDOOR RECREATION
- (3) OUTDOOR RECREATION
- (4) AGRICULTURE
- (5) FORESTRY
- (6) PLANNED UNIT DEVELOPMENTS-MIXED USE

**SECTION 433 Dimensional Requirements**

- (1) Minimum LOT AREA 5,000 sq. ft.
  - (2) Minimum Road FRONTAGE 0 ft.
  - (3) Minimum FRONT SETBACK 0 to 20 ft.
  - (4) Minimum SIDE SETBACK 0 ft.
  - (5) Minimum REAR SETBACK 0 ft.
  - (6) Maximum LOT COVERAGE 80%
  - (7) Maximum building stories 5 STORIES
- For any building above four (4) stories – additional review standards, including increased setbacks, may apply to ensure LIKE KIND QUALITY.
- (8) Maximum building HEIGHT 70 ft.

**SECTION 440 CHECKERBERRY (M4) DISTRICT**

**SECTION 441 Purpose**

The purpose of this district is to allow for a mix of residential, commercial, and limited industrial uses.

**SECTION 442 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) DUPLEXES
- (3) MULTIFAMILY DWELLINGS



- (4) PLANNED UNIT DEVELOPMENTS-Residential
- (5) PLANNED UNIT DEVELOPMENTS-Commercial
- (6) PLANNED UNIT DEVELOPMENTS-MIXED USE
- (7) ELDERLY HOUSING COMPLEX
- (8) RETAIL SALES
- (9) PERSONAL SERVICES
- (10) GENERAL/MEDICAL OFFICE
- (11) RESTAURANTS
- (12) RESTAURANTS, FAST FOOD
- (13) BAKERY/DELICATESSEN
- (14) MOTELS
- (15) BED & BREAKFASTS
- (16) AUTOMOTIVE SALES with associated service and repair
- (17) PUBLIC WAREHOUSING
- (18) PRIVATE WAREHOUSING
- (19) DISTRIBUTING of non-HAZARDOUS MATERIALS
- (20) PRIVATE/PUBLIC FACILITIES
- (21) COMMERCIAL PLANT NURSURIES, GREENHOUSES, AND LANDSCAPING SERVICES
- (22) AGRICULTURE
- (23) INDOOR RECREATION
- (24) FORESTRY
- (25) MOBILE HOME PARKS
- (26) CHILD DAY CARE FACILITY

**SECTION 443 Conditional Uses**

- (1) ENCLOSED LIGHT MANUFACTURING AND ASSEMBLY
- (2) RESEARCH AND DEVELOPMENT LABORATORIES
- (3) ENCLOSED WHOLESALE
- (4) ENCLOSED OUTDOOR STORAGE
- (5) CONSTRUCTION AND AGRICULTURAL EQUIPMENT SALES AND SERVICE
- (6) OUTDOOR RECREATION
- (7) DISTRIBUTING of HAZARDOUS MATERIALS

**SECTION 444 Dimensional Requirements**

- (1) Minimum LOT AREA 20,000 sq. ft.
- (2) Minimum Road FRONTAGE along Route 7 200 ft.
- (3) Minimum Road FRONTAGE along other roads 100 ft.
- (4) Minimum FRONT SETBACK 20 ft.
- (5) Minimum SIDE SETBACK 10 ft.
- (6) Minimum REAR SETBACK 10 ft.
- Maximum BUILDING COVERAGE 40%
- (8) Maximum LOT COVERAGE 60%
- (9) Maximum building stories 4 STORIES
- (10) Maximum DENSITY 7 units per 40,000 sq. ft. (Multifamily Dwellings, PUD-Residential or PUD-MIXED USE)

**SECTION 450 OLD TOWNE RESIDENTIAL/COMMERCIAL (M5) DISTRICT****SECTION 451 Purpose**

The purpose of this district is to allow mainly residential uses, and some limited commercial uses.

**SECTION 452 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) DUPLEXES
- (3) PLANNED UNIT DEVELOPMENTS-Residential (minimum of 5 contiguous acres required.)
- (4) ELDERLY HOUSING COMPLEX
- (5) PLANNED UNIT DEVELOPMENTS-Commercial
- (6) PLANNED UNIT DEVELOPMENTS-MIXED USE
- (7) PERSONAL SERVICES
- (8) GENERAL/MEDICAL OFFICE
- (9) RESTAURANTS
- (10) BAKERY/DELICATESSEN
- (11) BED & BREAKFASTS
- (12) PRIVATE/PUBLIC FACILITIES
- (13) AGRICULTURE
- (14) FORESTRY
- (15) CHILD DAY CARE FACILITY

**SECTION 453 Conditional Uses**

- (1) INDOOR RECREATION
- (2) OUTDOOR RECREATION

**SECTION 454 Dimensional Requirements**

- |     |                           |   |
|-----|---------------------------|---|
| (1) | Minimum LOT AREA          | 10,000 sq. ft.  |
| (2) | Minimum Road FRONTAGE     | 80 ft.  |
| (3) | Minimum FRONT SETBACK     | 20 ft.  |
| (4) | Minimum SIDE SETBACK      | 10 ft.  |
| (5) | Minimum REAR SETBACK      | 10 ft.  |
| (6) | Maximum BUILDING COVERAGE | 40%   |
| (7) | Maximum LOT COVERAGE      | 50%   |
| (8) | Maximum building stories  | 3 STORIES   |
| (9) | Maximum DENSITY           | 4 units per 40,000 sq. ft. (PUD-Residential and/or PUD-MIXED USE) |

**SECTION 460 MAIN STREET (M6) DISTRICT****SECTION 461 Purpose**

The purpose of this district is to allow continued use and reuse of existing historic buildings, including new buildings that are sensitive to the existing character of the area. Owner-occupied buildings are encouraged and may contain up to three (3) DWELLING UNITS. However, these owner-occupied triplexes are only to

be used as an adaptive reuse measure, therefore multifamily dwellings are only allowed within a residential buildings existing footprint and square footage that was in existence on or before December 21, 2006.

**SECTION 462 Permitted Uses**

- (1) SINGLE FAMILY DWELLINGS
- (2) DUPLEXES
- (3) TRIPLEXES - OWNER OCCUPIED (only within the existing buildings footprint and square footage that was in existence on or before December 21, 2006.)
- (4) PLANNED UNIT DEVELOPMENTS-Residential (minimum of 5 contiguous acres required.)
- (5) PLANNED UNIT DEVELOPMENTS-MIXED USE
- (6) PLANNED UNIT DEVELOPMENTS-Commercial
- (7) ELDERLY HOUSING COMPLEX
- (8) PERSONAL SERVICES
- (9) GENERAL/MEDICAL OFFICE
- (10) RESTAURANTS
- (11) BAKERY/DELICATESSEN
- (12) BED & BREAKFASTS
- (13) PRIVATE/PUBLIC FACILITIES
- (14) CHILD DAY CARE FACILITY

**SECTION 463 Dimensional Requirements**

- |     |                           |                |
|-----|---------------------------|----------------|
| (1) | Minimum LOT AREA          | 10,000 sq. ft. |
| (2) | Minimum Road FRONTAGE     | 80 ft.         |
| (3) | Minimum FRONT SETBACK     | 20 ft.         |
| (4) | Minimum SIDE SETBACK      | 10 ft.         |
| (5) | Minimum REAR SETBACK      | 10 ft.         |
| (6) | Maximum BUILDING COVERAGE | 40%            |
| (7) | Maximum LOT COVERAGE      | 50%            |
| (8) | Maximum building stories  | 3 STORIES      |

**SECTION 465 DOWNTOWN BUSINESS (DB1) DISTRICT**

**SECTION 466 Purpose**

The purpose of the DB1 District is to encourage and enhance the development of Town Core areas with the tallest buildings, highest density, and greatest diversity of commercial and light industrial uses. Residential uses would not be allowed except where incorporated into a Planned Unit Development-MIXED USE or where created as elderly housing complex. Buildings should be placed close to the sidewalks. A pedestrian friendly environment should be encouraged through the planting of street trees and green belts along sidewalks and the placement of safe street crossings.

**SECTION 467 Permitted Uses**

- (1) SINGLE FAMILY RESIDENCES in existence prior to the effective date of this section. (NOTE: this section became effective on October 11, 2005)
- (2) SINGLE FAMILY, DUPLEX, AND MULTIFAMILY DWELLING USES provided that they are

- incorporated into a PLANNED UNIT DEVELOPMENT-MIXED USE.
- (3) PLANNED UNIT DEVELOPMENTS (PUD)-MIXED USE provided that:
- (a) at least 20% of the gross floor area of all the buildings in a PUD is constructed as commercial space either as 20% of each building, or with the gross floor area total distributed among several buildings, or with the gross floor area total constructed all in a single building; or
- (b) the entire first floor of each PUD building is constructed as commercial space; and
- (c) the commercial space in a PUD shall be either constructed first or concurrently with the non-commercial space in a PUD.
- (4) PLANNED UNIT DEVELOPMENTS-Commercial
- (5) ELDERLY HOUSING COMPLEX
- (6) RETAIL SALES of fuel, food, goods, & merchandise.
- (7) PERSONAL SERVICES
- (8) GENERAL/MEDICAL OFFICE
- (9) LAUNDROMATS
- (10) RESTAURANTS
- (11) RESTAURANTS, FAST FOOD
- (12) BAKERY/DELICATESSEN
- (13) MOTELS
- (14) PRIVATE/PUBLIC FACILITIES
- (15) INDOOR RECREATION
- (16) INDOOR THEATERS
- (17) FINANCIAL ESTABLISHMENTS
- (18) FUNERAL ESTABLISHMENTS
- (19) Transit Stations including Train and Bus stations. Also automobile parking garages or lots.
- (20) DRIVE-UP FACILITIES
- (21) CONVENTION CENTER
- (22) CHILD DAY CARE FACILITY

**SECTION 468 Conditional Uses**

- (1) ENCLOSED LIGHT MANUFACTURING AND ASSEMBLY
- (2) RESEARCH AND DEVELOPMENT LABORATORIES
- (3) DISTRIBUTING
- (4) OUTDOOR RECREATION
- (5) COMMERCIAL PLANT NURSERIES, GREENHOUSES, AND LANDSCAPING SERVICES
- (6) DRYCLEANING FACILITIES
- (7) PUBLIC OR PRIVATE WAREHOUSE

**SECTION 469 Dimensional Requirements**

- |     |                       |               |
|-----|-----------------------|---------------|
| (1) | Minimum LOT AREA      | 5,000 sq. ft. |
| (2) | Minimum Road FRONTAGE | 0 ft.         |
| (3) | Minimum FRONT SETBACK | 0 ft.         |
| (4) | Minimum SIDE SETBACK  | 0 ft.         |
| (5) | Minimum REAR SETBACK  | 0 ft.         |

- |     |                           |                        |
|-----|---------------------------|------------------------|
| (6) | Maximum BUILDING COVERAGE | 40%                    |
| (7) | Maximum LOT COVERAGE      | 80%                    |
| (8) | Maximum building HEIGHT   | 5 STORIES up to 70 ft. |
- For any building above four (4) stories – additional review standards, including increased setbacks, may apply to ensure LIKE KIND QUALITY.

### **SECTION 470 FLOOD HAZARD (FH) DISTRICT**

Refer to Appendix A of the Milton Zoning Regulations: *Inundation Hazard Area Regulations* for the regulations for the flood hazard areas as described in Section IV of Appendix A.

### **SECTION 480 FORESTRY/CONSERVATION/SCENIC RIDGELINE (FC) DISTRICT**

#### **SECTION 481 Purpose**

The purpose of this district is to preserve open space; to protect soils, water, and other natural resources; to protect scenic ridgeline viewsheds and vistas important to the character of the Town of Milton; to preserve forests and encourage forest-related USES; to promote AGRICULTURE and recreational USES that can benefit from the unique topography of the area; and to enable, to a limited extent, residential USES. Such residential USES are to be enabled only for land parcels necessarily located near the district boundary that are accessible without extreme land disruption; that do not contain steep slopes, unstable soils, and other natural limitations; and only for sites that have the capacity to provide safe ingress and egress. Where possible, said residential USES shall be clustered.

The undeveloped ridges and hillsides of Milton are one of Milton's principal scenic qualities and contribute significantly to the enjoyment of the rural and pastoral character of the town. The Scenic ridgelines have been identified as Georgia Mountain, Milton Pond and surrounding ridgeline, Bald Hill, Cobble Hill, Eagle Mountain and Arrowhead Mountain. In order to protect these ridgelines, no STRUCTURE or BUILDING shall be visible above the existing tree line.

#### **SECTION 482 Permitted Uses**

- (1) AGRICULTURE
- (2) FORESTRY
- (3) PLANNED UNIT DEVELOPMENT-Residential (Minor only) - the maximum density for PLANNED UNIT DEVELOPMENT-Residential (Minor only) shall be based upon the conventional layout requirements for permitted USES outlined in Section 484, and as applied to Section 856.1 of these Regulations.

#### **SECTION 483 Conditional Uses**

- (1) OUTDOOR RECREATION
- (2) ACCESSORY STRUCTURES provided that the Development Review Board finds that the conditions of Section 500 are met and that the proposed STRUCTURE is necessary for the operation of the PRINCIPAL USE.
- (3) SINGLE FAMILY DWELLINGS and ACCESSORY STRUCTURES thereto, provided that the proposed dwelling satisfies the requirements of Section 500 of these by-laws, and provided further that the Development Review Board makes an affirmative finding that the

proposed USE complies with the following criteria:

- (a) the location of the BUILDABLE ENVELOPE will not occur on land that is clearly undevelopable due to environmental limitations, such as designated WETLANDS, navigable streams or navigable water courses, rock formations visible from outside the site, UNDEVELOPABLE SOILS, flood and earth hazard areas;
  - (b) the location of the BUILDABLE ENVELOPE will not occur on land containing slopes in excess of 15%, defined as the change in elevation divided by distance in feet as determined by a topographic survey with contour intervals of five feet;
  - (c) the parcel of land containing the site has the capacity to provide safe access to the BUILDABLE ENVELOPE via roadway with a grade of 10% or less;
  - (d) no flood or earth movement hazard area, designated wetland, navigable stream, navigable watercourse, or rock formation visible from outside the site shall be disrupted in order to gain access to the BUILDABLE ENVELOPE;
  - (e) the USE has the capacity to provide a septic design that conforms with Town of Milton and State standards within the BUILDABLE ENVELOPE.
- (4) BED AND BREAKFAST, provided that the proposed USE satisfies the requirements of Section 500 of these by-laws, and that one of the following conditions are satisfied:
- (a) The Development Review Board makes an affirmative finding that the proposed USE complies with the criteria outlined in Section 483(3)(a)(b)(c)(d) and (e) above are satisfied through the procedures outlined in Section 486 of this Ordinance;
  - (b) The proposed BED AND BREAKFAST occurs within an approved PLANNED RESIDENTIAL DEVELOPMENT;
  - (c) The proposed BED AND BREAKFAST occurs within a previously approved BUILDABLE ENVELOPE.
- (5) PLANNED UNIT DEVELOPMENT-Residential (Major only) - the maximum density for PLANNED UNIT DEVELOPMENT-Residential (Major only) shall be based upon the conventional layout requirements for permitted USES outlined in Section 484, and as applied to Section 856.1 of these Regulations.

**SECTION 484 Dimensional Requirements for Permitted Uses**

(1)	Minimum LOT AREA	600,000 sq. ft.
(2)	Minimum Road FRONTAGE	100 ft.
(3)	Minimum FRONT SETBACK	35 ft.
(4)	Minimum SIDE SETBACK	50 ft.
(5)	Minimum REAR SETBACK	50 ft.
(6)	Maximum BUILDING COVERAGE	40%
(7)	Maximum LOT COVERAGE	15%

**SECTION 485 Dimensional Requirements for Conditional Uses**

(1)	Minimum LOT AREA	600,000 sq. ft.
(2)	Minimum Road FRONTAGE	100 ft.
(3)	Minimum FRONT SETBACK	35 ft.
(4)	Minimum SIDE SETBACK	50 ft.
(5)	Minimum REAR SETBACK	50 ft.
(6)	Maximum BUILDING COVERAGE	40%
(7)	Maximum LOT COVERAGE	15% of the developable portions of the lot, as determined by Section 483(3)(a)(b)(c)(d) of this Ordinance.

- (8) Minimum SETBACK from 200 ft.  
designated WETLANDS, navigable  
streams and watercourses, or  
natural features determined  
by the Development Review Board to  
be of ecological or aesthetic  
significance.

**SECTION 486 Procedures and Materials for All Uses**

Applications for all USES within this district must first be directed to the Planning Staff who shall determine the completeness of the application. The following materials shall be required by the Development Review Board in order to make findings based on the following criteria:

- (a) a topographic survey showing contour intervals of five feet for the portion of the site that is to contain the proposed use showing the relationship of the proposed use to the surrounding terrain and existing vegetation. All slopes greater than 15% as determined by the change in elevation divided by distance in feet shall be clearly delineated on the survey and shall be excluded from the BUILDABLE ENVELOPE;
- (b) a survey delineating all designated WETLANDS, navigable streams, navigable watercourses, wooded and open areas, flood hazard areas and earth movement hazard areas occurring within 200 feet of any proposed use or means of access.
- (c) a roadway profile with grading limits clearly defined and existing and proposed cross-sections at critical locations that shows the proposed means of access to the BUILDABLE ENVELOPE or use; the profile must demonstrate that a roadway with a grade of 10% or less can be constructed in the location of any proposed means of access to the BUILDABLE ENVELOPE or use;
- (d) sections and elevations clearly showing the relationship of the existing site and the proposed use and access roadway or driveway to the existing surroundings, specifically the existing vegetation and topography;
- (e) a letter from a certified engineer, indicating that all of the elements required for submission as indicated above are complete and accurate;
- (f) a septic design conforming to State standards for the proposed use.

## **ARTICLES V, VI AND VII GENERAL REGULATIONS**

### **SECTION 500 CONDITIONAL USES**

No Zoning Permit shall be issued by the Zoning Administrator for any USE or STRUCTURE which requires CONDITIONAL USE approval until the Development Review Board grants such approval, after PUBLIC NOTICE and public hearing. The authorization by the Development Review Board shall be granted only upon a finding by it that the proposed USE complies with the specific dimensional and other applicable standards as set forth in these Regulations and that the proposed CONDITIONAL USE does not have an undue adverse effect:

- 500.1 The capacity of existing or planned community facilities or services including water, waste disposal, roads, police, fire services and schools.
- 500.2 The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- 500.3 Environmental limitations of the site or area, and significant natural resource areas or sites.
- 500.4 The *Comprehensive Plan* and all bylaws, ordinances and/or regulations of the Town of Milton.
- 500.5 Traffic on roads and highways in the vicinity.
- 500.6 Utilization of renewable energy resources.

### **SECTION 501 Conditions**

In granting such CONDITIONAL USE, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the provisions and intentions of these Regulations and the Milton *Comprehensive Plan*.

### **SECTION 502 Time Limit**

The Development Review Board shall act to approve or disapprove any such requested CONDITIONAL USE within forty-five (45) days after the date of the final public hearing held under this Section, provided the applicant has met all the requirements of these Regulations. Failure to so act within such period shall be deemed approval.

### **SECTION 503 Appeal**

Decisions by the Development Review Board may be appealed in accordance with the *Vermont Administrative Procedure Act* (Title 3, V.S.A., Chapter 25). All decisions shall include information on appeal procedures (Section 960).



**SECTION 510 NON-CONFORMING USES**

The following provisions shall apply to all buildings containing USES existing on the effective date of these Regulations which do not conform to the land USE requirements of the district in which they are located and to all buildings and USES that in the future do not conform by reason of any subsequent amendment to these Regulations.

**SECTION 511 Change of Use**

A NON-CONFORMING USE may not be changed to another NON-CONFORMING USE, except as follows:

- (1) The change is approved by the Development Review Board under the requirements of Section 500 for CONDITIONAL USE approval; and
- (2) The proposed USE is a permitted USE within at least one ZONING DISTRICT within the Town of Milton, except as limited under Section 894(1) of this Ordinance; and
- (3) The proposed USE is one which is less in degree of non-conformity than the previous USE. In making such a determination, the Development Review Board must find that the proposed USE will more closely resemble the permitted USES within the district, and will reduce the impact of the previous USE on such factors as parking, traffic, open storage, visual impact and noise.

**SECTION 512 Expansion or Enlargement**

A NON-CONFORMING USE or STRUCTURE containing a NON-CONFORMING USE may not be expanded or enlarged, except as follows:

- (1) The EXPANSION or enlargement is approved by the Development Review Board under the requirements of Section 500 for CONDITIONAL USE approval; and
- (2) The proposed EXPANSION is a permitted USE in at least one ZONING DISTRICT within the Town of Milton, except as limited under Section 894(1) of this Ordinance; and
- (3) The proposed EXPANSION does not exceed that which is permitted for the most extensive USE permitted within the ZONING DISTRICT in which it is located; and
- (4) The proposed EXPANSION or enlargement of USE results in an increase in only the volume, intensity, frequency or area of the previous USE, and does not involve the creation of a new NON-CONFORMING USE, the displacement of a conforming USE, nor the creation of a non-conformity in relation to SETBACKS or LOT COVERAGE.
- (5) In situations where residential uses or structures were made NON-CONFORMING as the result of a zoning amendment, such NON-CONFORMING residential uses or structures may be expanded or enlarged or used for a home occupation as a matter of right without CONDITIONAL USE approval by the Development Review Board provided that the current setback distances and building coverage requirements are met.

**SECTION 513 Restoration**

A STRUCTURE housing a NON-CONFORMING USE, if destroyed or damaged by fire, collapse, explosion or similar cause may be reconstructed or repaired for the NON-CONFORMING USE, provided that the NON-CONFORMING USE is not extended, expanded or enlarged in any way, and provided that such reconstruction or repair is completed within one year of the damage or destruction.

**SECTION 514 Abandonment**

No NON-CONFORMING USE may be resumed if such USE has been abandoned for a period of eighteen months. Death of an owner of a property containing a NON-CONFORMING USE shall not be considered abandonment. However, a non-conforming individual mobile home lot that is vacated shall not be considered an abandonment of nonconformity.

A NON-CONFORMING USE shall be considered abandoned when any of the following conditions exist:

- (1) When the characteristic equipment and furnishings have been removed from the premises and have not been replaced by similar equipment and furnishings within eighteen months; or
- (2) When it has been replaced by another USE.

**SECTION 515 Repairs and Alterations**

Nothing in this Section shall be deemed to prevent ordinary repairs to or prohibit ALTERATIONS of any STRUCTURE containing a NON-CONFORMING USE provided that the floor area devoted to the NON-CONFORMING USE shall not be increased.

**SECTION 516 Unlawful Uses Not Authorized**

Nothing in this Section shall be interpreted as authorization for or approval of a STRUCTURE or premises which was in violation of the Zoning Regulations in effect at the time of enactment of these Regulations.

**SECTION 520 NON-COMPLYING STRUCTURES**

The following provisions shall apply to any STRUCTURE or part of a STRUCTURE existing on the effective date of these Regulations which does not conform to the dimensional requirements of the district in which it is located; and to all STRUCTURES that in the future do not conform by reason of any subsequent amendment to the Regulations. The dimensional requirements shall include, but not be limited to, SETBACKS, HEIGHT, LOT COVERAGE, density and off-STREET parking and loading.

- 520.1 Any ALTERATION, EXPANSION or change to a NON-COMPLYING STRUCTURE which does not result in any increase in the non-complying nature of the STRUCTURE (e.g., further encroachment into a SETBACK or a further increase in LOT COVERAGE) may be permitted by the Zoning Administrator provided that the proposed change does not result in an increase in floor area of the structure and that the proposed changes complies with all other provisions of these Regulations.
- 520.2 Any ALTERATION, EXPANSION or change to a NON-COMPLYING STRUCTURE which does result in an increase in the non-complying nature of a STRUCTURE and/or any increase in floor space may be permitted by the Development Review Board as a variance in accordance with the provisions of Section 970 of these Regulations.
- 520.3 Non-complying mobile home parks shall be treated as non-complying, however individual lots within these mobile home parks shall not be considered non-complying.

**SECTION 530 REQUIRED FRONTAGE AND APPROVED ACCESS**

Land development shall only be permitted on lots having frontage on public waters, lots having access on a PUBLIC ROAD meeting Class 1, 2, or 3 state standards, or, with the approval of the Development Review Board, lots having access to a PUBLIC ROAD meeting Class 1, 2, or 3 state standards over a permanent, private easement or private right-of-way at least 60-feet wide, or 40-feet wide as permitted within these regulations.

No Zoning Permit shall be issued for construction or development of any kind on a lot without FRONTAGE on a PUBLIC ROAD or waters until a permanent easement or right-of-way has been approved by the Development Review Board, in accordance with their right-of-way policy.

**SECTION 531 Class 4 Roads**

Nothing in this section shall be construed to require the Town to maintain a Class 4 road or to upgrade a road from Class 4 to Class 3. This section shall not prohibit future accessory structures or expansions of existing primary structures, on Class 4 roads, that were developed prior to September 5, 2005; however, additional uses shall be prohibited.

For the purpose of site plan development or subdivision of new lots or for creating frontage or access for buildable lots, a petition to upgrade a Class 4 road to a Class 3 road shall be submitted to the Select Board in accordance with the provisions of 19 VSA Sections 708 through 717. In considering whether to reclassify a Class 4 road as a Class 3 road, the Select Board may request an advisory opinion from the Planning Commission as to whether the increased traffic and development potential likely to result from the reclassification is desirable or in accordance with the Comprehensive Plan.

19 VSA Section 302 (a)(3)(B) states that "the minimum standards for Class 3 highways are a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car. This would include but not be limited to sufficient surface and base, adequate drainage, and sufficient width capable to provide winter maintenance...." In order to accomplish this state standard, the upgraded road shall be constructed in accordance with the 'Town of Milton Public Works Specifications Ordinance' for construction of a PUBLIC ROAD. All expenses incurred in accomplishing the upgrading of a Class 4 road to Class 3 standards shall be borne by the individual petitioning permission to do the upgrade. An adequate monetary surety and warranty for the road improvements shall be provided to the Town.

After the Town Engineer confirms that the road upgrading has been done in accordance with the 'Town of Milton Public Works Specifications Ordinance' and the Select Board has reclassified the road to a Class 3 road in accordance with the provisions of 19 VSA Sections 708 through 717, applications for site plan review or subdivision of new lots, abutting or accessing the newly classified Class 3 road may be submitted to the Town for review and possible approval under the planning and zoning regulations.

**SECTION 532 Residential Frontage Requirement Waivers**

The Development Review Board may, in accordance with Title 24, V.S.A., Chapter 117, Section 4407(3) authorize a waiver from the minimum FRONTAGE requirements for any two-lot subdivision located within a district that permits single FAMILY residential USES provided that the subdivision is in compliance with the Town of Milton Public Works Specifications for Private Right-of-Way construction. *This section applies to all zoning districts except the OLD TOWNE RESIDENTIAL, OLD TOWNE RESIDENTIAL/COMMERCIAL, AND MAIN STREET Districts.*

- 532.1 The subdivision must result FRONTAGE on a PUBLIC ROAD appropriate to enable a curb cut. As a general standard, the Development Review Board shall encourage at least sixty (60) feet of FRONTAGE on a PUBLIC ROAD for each lot, but may waive this requirement only if pre-existing lot characteristics render this requirement infeasible.
- 532.2 The Development Review Board may limit the number of curb cuts allowed through such action by requiring shared DRIVEWAYS to be maintained by both lots.
- 532.3 The Development Review Board may deny such a request if the creation of a new lot would alter community character or result in the disruption of the continuity of a streetscape, or if the proposal contradicts any element of the *Comprehensive Plan of the Town of Milton*.

#### **SECTION 540 NUMBER OF BUILDINGS ON LOTS**

There shall be only one PRINCIPAL STRUCTURE or USE and its approved ACCESSORY STRUCTURES on a LOT. The following are exceptions: ACCESSORY farm DWELLINGS in accordance with Section 872 "ACCESSORY Dwelling"; DUPLEXES, TRIPLEXES and MULTIFAMILY DWELLINGS in accordance with the provisions of the District Regulations (Articles III and IV), and PLANNED UNIT DEVELOPMENTS in accordance with Section 850 "PLANNED UNIT DEVELOPMENTS".

#### **SECTION 550 USE OF SETBACK AREAS**

No STRUCTURE or portion of a STRUCTURE shall project into any minimum front, side, or REAR SETBACK area, except as provided by Sections 551 and 580. This regulation shall apply whether the STRUCTURE is ATTACHED to the principal structure or not and whether the STRUCTURE is open or ENCLOSED.

#### **SECTION 551 Exemptions**

The requirements of Section 550 shall be subject to the following exemptions:

- 551.1 Fences shall be considered exemptions.
- 551.2 SIGNS, canopies, and awnings may be located in the FRONT SETBACK area provided that they comply with all other requirements of these Regulations.
- 551.3 Public monuments and statues shall be exempt from Section 550.

#### **SECTION 560 HEIGHT**

No STRUCTURE shall exceed thirty-five (35) feet in HEIGHT above ground level except as noted in Articles III and IV for specific zoning districts and as noted below.

- 560.1 There are no HEIGHT restrictions on non-commercial antennas, residential chimneys, and on agricultural STRUCTURES such as barns and silos.
- 560.2 The Development Review Board may authorize, as a CONDITIONAL USE, any unoccupied,

uninhabitable STRUCTURE or portions thereof, such as church spires, belfries, monuments, tanks, water and fire towers, ornamental towers, smokestacks, flag poles, renewable energy structures and wind turbines, to exceed the HEIGHT limitation. Mechanical equipment on a commercial structure may only be granted CONDITIONAL USE to exceed the HEIGHT limitation by up to 10 (ten) vertical feet. Such mechanical equipment shall not cover more one third of the roof area. *This section applies to all zoning districts except the FORESTRY/CONSERVATION/SCENIC RIDGELINE District.*

- 560.3 The maximum HEIGHT of WIRELESS COMMUNICATION FACILITIES will be determined by the Development Review Board through the review and approval process described in Appendix B of these regulations, entitled *Wireless Communication Facilities Regulations*.

### **SECTION 570 SEWAGE DISPOSAL**

No building or STRUCTURE shall be erected or altered unless an appropriate sewage disposal system is provided in compliance with all applicable regulations of the State of Vermont, or other governmental authorities.

### **SECTION 580 ACCESSORY USES AND STRUCTURES**

Normal ACCESSORY USES and STRUCTURES, as defined in Section 1010 of this Ordinance, shall be allowed in all districts, subject to the following provisions:

- 580.1 They do not conflict with any other provision of this Ordinance.
- 580.2 They do not constitute a threat or nuisance to the health, safety, and welfare of neighboring property owners.
- 580.3 ACCESSORY STRUCTURES shall comply with FRONT SETBACK requirements for the district in which they are located.
- 580.4 Required SIDE and REAR SETBACKS for ACCESSORY STRUCTURES with an area of not more than 100 square feet and a HEIGHT of not more than 10 feet shall be five (5) feet, or the minimum required SIDE and REAR SETBACKS for the district in which they are located, whichever is less.
- 580.5 Required SIDE and REAR SETBACKS for ACCESSORY STRUCTURES with an area exceeding 100 square feet or a HEIGHT exceeding 10 feet shall be fifteen (15) feet, or the minimum required SIDE and REAR SETBACKS for the district in which they are located, whichever is less.
- 580.6 ACCESSORY STRUCTURES shall be located at least five (5) feet from any other STRUCTURE if not ATTACHED to such STRUCTURE.
- 580.7 ACCESSORY USES shall not exceed 10% or 2,000 sq. ft., whichever is the lessor, of the total GROSS FLOOR AREA of the PRINCIPAL STRUCTURE. This section shall not pertain to ACCESSORY APARTMENTS and HOME OCCUPATIONS (as they are addressed in Section 880 and Section 600 respectively). These uses shall be subject to "Site Plan Review" in accordance with Section 800. The purpose is to provide a small level of diversification to non-residential uses.

**SECTION 581 Swimming Pools**

Swimming pools shall be considered as an ACCESSORY USE. The following safety precautions must be in place for the duration of the swimming pool. No swimming pool with a maximum potential depth of two feet or more shall be used or located within any district without conformance to the following standards:

- 581.1 All pools shall be completely enclosed by a wall, fence, or other STRUCTURE not less than four (4) feet in HEIGHT with a self-closing and self-latching gate. These precautions must be in place prior to issuance of a Certificate of Compliance and prior to any use of the pool.
- 581.2 Above-ground pools with essentially smooth, vertical exterior walls at least four (4) feet in HEIGHT above grade for the entire perimeter need not meet the fencing requirement of Section 581.1, provided that:
- (a) The ladder access area is enclosed by a wall, fence, or other structure not less than four (4) feet in HEIGHT with a self-closing and self-latching gate, or
  - (b) Entrance to the pool is possible only through the use of steps or stairs which are portable, and removed when the pool is not in use.
  - (c) These precautions must be in place prior to issuance of a Certificate of Compliance and prior to any use of the pool.

**SECTION 590 ROADS AND DRIVES**

All roads and drives shall conform to the requirements of this Section.

**SECTION 591 Public Roads**

New roads shall only be considered for acceptance as a PUBLIC ROAD if all of the following conditions are met:

1. The road will provide improved traffic circulation to the local PUBLIC ROAD network, or have easements or rights-of-way secured to improve traffic circulation to the local PUBLIC ROAD network in the future; and
2. The road will create a pattern of interconnecting roads and blocks, that encourages multiple routes from origins to destinations. The road, or network of roads, must have a looped road (roads having more than one separate connection to an existing PUBLIC RIGHT-OF-WAY). This shall not render developments in existence prior to January 15, 2009 as non-conforming; and
3. The road will be constructed in accordance with the Town of Milton's Public Works Specifications; and
4. The road will intersect an existing Town or State highway; and
5. Acceptance of the road is in accordance with the goals of the Milton Comprehensive Plan.

The Selectboard has the ultimate authority on acceptance of PUBLIC ROADS in accordance with Title 19 V.S.A. Chapter 7, Laying Out, Discontinuing and Reclassifying Highways. Meeting the requirements of this Section will not automatically guarantee acceptance of the road as public, however compliance with these conditions must be demonstrated to the Development Review Board through the subdivision review process if the intention is to establish a new PUBLIC ROAD.

**SECTION 592 Private Roads**

A PRIVATE ROAD is any road that is not offered to and accepted by the Town as a PUBLIC ROAD. Responsibility for construction, maintenance and improvements shall fall entirely upon the owners and operators of each PRIVATE ROAD. The right-of-way is to remain in private ownership and is not intended for dedication as a Town road. PRIVATE ROADS must be certified by a Professional Engineer for conformance with the approved plans.

**Standards**

- 592.1 PRIVATE ROADS must be built to the PRIVATE ROAD specifications as defined in the Public Works Specifications.
- 592.2 Proper drainage facilities shall be constructed to ensure that PUBLIC ROADS are not subject to flooding or other damage from a PRIVATE ROADS.
- 592.3 Intersections of PRIVATE ROADS and PUBLIC ROADS shall be designed to ensure adequate visibility and safety.
- 592.4 PRIVATE ROADS shall be constructed so as to permit the safe access of emergency vehicles to all STRUCTURES.
- 592.5 Units accessed through a PRIVATE RIGHT-OF-WAY must have FRONTAGE on that PRIVATE RIGHT-OF-WAY;
- 592.6 The width of a PRIVATE RIGHT-OF-WAY shall be at least forty (40) feet, if the subdivision is a PLANNED UNIT DEVELOPMENT. The Development Review Board must approve this reduced width.
- 592.7 The maximum length of the PRIVATE RIGHT-OF-WAY for any residential subdivision shall be one thousand linear (1000) feet in its entirety; this requirement may be waived by the Development Review Board if it is determined that the roadway proposed can provide safe access for emergency vehicles. This length shall be measured from the intersection with a PUBLIC RIGHT-OF-WAY;
- 592.8 All PRIVATE RIGHTS-OF-WAY in excess of five hundred (500) feet shall provide at least one pullout area every five hundred (500) feet, the exact location of which shall be determined through the subdivision review process;
- 592.9 A PRIVATE RIGHT-OF-WAY shall be paved when the grade of the roadbed exceeds 7%;
- 592.10 No roadway within a PRIVATE RIGHT-OF-WAY shall be constructed with a grade greater than 10%;
- 592.11 A PRIVATE RIGHT-OF-WAY serving more than 30 lots or 50 dwelling units must have a LOOPED ROAD (roads having more than one separate connection to an existing PUBLIC RIGHT-OF-WAY). This requirement may be waived by the Development Review Board if it is determined that the roadway proposed can provide safe access for emergency vehicles and efficient layout of utilities. This waiver may not be allowed for PRIVATE RIGHTS-OF-WAY serving more than 60 lots or 100 dwelling units. This shall not render developments in

existence prior to January 15, 2009 as non-conforming;

- 592.12 A dead-end PRIVATE RIGHT-OF-WAY shall have a suitable cul-de-sac or hammerhead at the terminus;
- 592.13 Deeds or declarations creating PRIVATE RIGHTS-OF-WAY approved by the Development Review Board shall contain legally binding covenants, running with the land, absolving the Town from taking over said right-of-way as a Town highway; such covenants shall be included in the recorded deeds for each parcel created through the subdivision, and this condition shall be clearly indicated on the final subdivision plat for the development; such agreements shall inform all current and future land owners that the Town shall not be asked to maintain or take over the right of way in the future; such agreement shall involve all units that utilize the right-of-way regardless of whether said lot was created through the subdivision;
- 592.14 The USE of a PRIVATE RIGHT-OF-WAY shall require a legally executed agreement for the perpetual maintenance of the right-of-way by future owners of lots within the subdivision or for any lot utilizing the right-of-way for access regardless of whether said lot was created through the subdivision. A Homeowners Association must be established in order to ensure proper maintenance of the right-of-way in the future;
- 592.15 When a PRIVATE RIGHT-OF-WAY is proposed, the applicant shall provide a roadway profile by a certified engineer guaranteeing compliance with the terms of this Section; no PRIVATE RIGHT-OF-WAY shall be approved by the Development Review Board without the receipt of a letter of approval from the Town's Fire Chief, Police Chief or Rescue Squad stating that the right-of-way will provide safe access to each DWELLING UNIT that it serves; such profile shall be submitted prior to the final public hearing for the subdivision.

### **SECTION 593 Driveways**

All drives on private property shall be considered private. Responsibility for construction, maintenance and improvements shall fall entirely upon the owners and operators of each private drive.

#### ***Standards***

- 593.1 DRIVEWAYS shall be used to serve a maximum of three lots and no more than three DWELLING UNITS. Any excess in number of DWELLING UNITS must be served by a road and shall meet the requirements of either Section 591 or Section 592.
- 593.2 DRIVEWAYS must be built to the DRIVEWAY specifications as defined in the Public Works Specifications.
- 594.3 Proper drainage facilities shall be constructed to ensure that PUBLIC ROADS are not subject to flooding or other damage from a private DRIVEWAY.
- 593.4 Intersections of DRIVEWAYS and PUBLIC ROADS shall be designed to ensure adequate visibility and safety.
- 593.5 DRIVEWAYS shall be constructed so as to permit the safe access of emergency vehicles to all dwelling units. DRIVEWAYS shall be constructed with a minimum width of 12' with 2' shoulders; a minimum turning radius of 42'; and a maximum DRIVEWAY grade of



15%, unless otherwise expressly stated in these Regulations.

- 593.6 The USE of a SHARED DRIVEWAY shall require a legally executed agreement for the perpetual maintenance of the DRIVEWAY by future owners of lots within the subdivision or for any lot utilizing the right-of-way for access regardless of whether said lot was created through the subdivision; a Homeowners Association must be established in order to ensure proper maintenance of the right-of-way in the future.
- 593.7 The private DRIVEWAY shall reach a point near the subject building where fire equipment and personnel can be positioned to effectively fight a fire without inordinate risk to their personnel and equipment. In general the horizontal distance from the fire equipment parking spot to the house shall be no farther than 100 feet and shall include an open corridor suitable in the Rescue Department's judgment to lay out equipment, to approach the subject building, to enter the building, and to fight a fire. In some cases the approved location and accessibility of the residence may not be optimal to effectively fight a fire. However, in no case shall a residence have insufficient accessibility to allow rescue and police to protect human life.
- 593.8 A private DRIVEWAY shall have a minimum of 15 foot height clearance. This clearance includes the height of tree branches and overhead wiring carrying a normal amount of snow and ice.
- 593.9 SEASONAL CAMPS may be exempt from complying with Sections 593.5, 593.7, and 593.8 if the SEASONAL CAMP is inhabited on a part-time basis for less than 30 consecutive days at a time; and no more than 120 days in a calendar year.

#### **SECTION 594 Highway Access Permit**

No Zoning Permit shall be issued for the construction of a PRIVATE ROAD or DRIVEWAY which intersects a Town or State highway without a valid Highway Access Permit in accordance with Title 19, V.S.A., Chapter 1, Section 43 and these Regulations and the Milton Public Works Specifications. A Zoning Permit may be issued by the Zoning Administrator only after completion of a Highway Access Permit application and approval by the Town Engineer or Highway Superintendent.

#### **SECTION 595 Inspection for Certificate of Compliance**

Before a Certificate of Compliance is granted by the Zoning Administrator under Section 910, all new curb cuts or amended curb cuts to an existing PUBLIC ROAD, or DRIVEWAYS on a future PUBLIC ROAD shall be inspected by the **Town Engineer or Highway Superintendent** to ensure compliance with the requirements of this Section.

#### **SECTION 600 HOME OCCUPATIONS**

Pursuant to 24 VSA Section 4412(4), HOME OCCUPATIONS are permitted in all districts in which residences are permitted, provided that they are in conformance with the provisions of this Section. No Zoning Permit is required for HOME OCCUPATIONS, except as noted below.

- 600.1 The HOME OCCUPATION shall be carried on only by full time residents of the dwelling and no more than two employees who are not full-time residents of the dwelling.

- 600.2 The HOME OCCUPATION shall be clearly incidental and secondary to the residential USE of the dwelling. The area utilized for the HOME OCCUPATION can be up to fifty percent (50%) of the dwelling square footage plus any accessory buildings not to exceed 1,000 square feet. For HOME OCCUPATIONS utilizing greater than 50% of the dwelling square footage plus any accessory buildings or 1,000 square feet, CONDITIONAL USE approval is required.
- 600.3 The HOME OCCUPATION can be carried on entirely indoors, however, there can be OUTDOOR STORAGE of materials or equipment provided it is covered or screened from view from outside the property boundaries.
- 600.4 Parking shall be provided off-STREET and shall not be located in FRONT SETBACK areas. Not more than one business-related vehicle not exceeding 15,000 pounds gross vehicle weight as designated by the manufacturer may be kept on a lot as part of a HOME OCCUPATION. No heavy equipment shall be kept on a lot as part of a HOME OCCUPATION.
- 600.5 A SIGN, as provided for under Section 830, may be displayed in the FRONT SETBACK area.
- 600.6 HOME OCCUPATIONS which produce objectionable noise, smoke, vibration, dust or odors discernable on any adjoining property or dwelling unit shall not be permitted.
- 600.7 HOME OCCUPATIONS which create an undue adverse effect upon the character of the neighborhood, substantially or permanently impair the USE of adjacent property or dwelling, or are detrimental to the public welfare shall not be permitted. Hours of operation, outdoor lighting, etc., shall be compatible with the character of the residential neighborhood. Hours of any activities that are discernible beyond the property boundaries (traffic, noise, etc.) shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday.
- 600.8 RETAIL SALES are permitted, provided they are limited to those items produced as part of the HOME OCCUPATION. Sales of products directly related to the delivery of a PERSONAL SERVICE are also permitted.
- 600.9 HOME OCCUPATIONS shall not produce traffic that alters the essential character of the neighborhood.
- 600.10 If the above conditions are not met, a HOME OCCUPATION shall require CONDITIONAL USE approval from the Development Review Board. A Zoning Permit is required for any HOME OCCUPATION that receives CONDITIONAL USE approval. Any CONDITIONAL USE approval for a HOME OCCUPATION is granted to the applicant for the length of time that the applicant occupies the dwelling. Approval shall terminate upon relocation by the applicant and shall neither remain with subsequent occupants of the dwelling nor transfer to a new location with the original applicant.

**SECTION 610 CHILD DAY CARE HOME AND FACILITY/GROUP HOMES**

- 610.1 Pursuant to Vermont State Statutes, Title 24, Section 4412(5), the following shall be considered by right to constitute a single family residential use of property and are allowed in all zoning districts where single family residences are permitted:
- a. A state registered or licensed CHILD DAY CARE HOME serving six or fewer children or a

state registered or licensed CHILD DAY CARE HOME serving up to six full time and four part time children.

- b. A state licensed or registered RESIDENTIAL CARE HOME or GROUP HOME, serving not more than eight persons who are developmentally disabled or physically handicapped.

610.2 A state registered or licensed CHILD DAY CARE FACILITY serving more than ten children is a permitted use in any M1, M2, M4, M5, M6, DB1 and I2 zoning district. These facilities are required to meet all applicable state licensing and code requirements and shall obtain Site Plan approval from the Development Review Board.

### **SECTION 620 REDUCTION OF LOT SIZE**

No lot shall be so reduced in area so that the total area, SETBACK areas, lot width, FRONTAGE, coverage, or other requirements of these Regulations shall be other than herein prescribed for the district in which the lot is located.

### **SECTION 621 Exception**

Notwithstanding the provisions of Section 620, the Development Review Board may approve a boundary line adjustment between two adjoining existing non-conforming lots, provided that there be no potential for the further subdivision of either lot, subject to the following restrictions:

- (1) Neither lot may enjoy additional building or development rights that did not exist prior to the lot line adjustment; for the lot receiving additional land, any STRUCTURE which was permitted prior to the lot line adjustment may be situated any place within the newly formed lot in accordance with the LOT AREA and dimensional requirements of its particular district; and
- (2) Neither lot may be further subdivided; and
- (3) The boundary line adjustment may not result in a non-conformity that did not previously exist for either lot; and
- (4) No land containing a primary STRUCTURE or waste water disposal system may be transferred through this exception; and
- (5) A statement must be submitted to the Development Review Board by a certified site technician or engineer verifying that the lot to be diminished in size will have an adequate septic replacement area after the reduction in lot size authorized herein.

### **SECTION 630 EXISTING SMALL LOTS**

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of the first legal Zoning Regulations of the Town of Milton may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than 1/8 ACRE in area with a minimum width or depth dimension of forty (40) feet.

### **SECTION 631 Residential Side and Rear Set-Back Requirements for Existing Small Lots**

Single FAMILY residential USES within legally existing lots that are non-conforming with regard to minimum

LOT AREA requirements and that are located within a district that permits single FAMILY residential USES shall be subject to 15 foot minimum side and REAR SETBACKS.

**SECTION 640 LOT WIDTH**

The width of any new lot shall not be less than one-third (1/3) of the depth of the lot. This requirement may be waived by the Development Review Board for any lot occurring within the Forestry/Conservation/Scenic Ridgeline District.

**SECTION 650 TEMPORARY STRUCTURES AND CONSTRUCTION OFFICES OR TRAILERS**

During the period of construction, temporary STRUCTURES, construction offices, and construction trailers used in conjunction with construction work are permitted. Such STRUCTURES as are permitted under this Section shall not be used as dwellings. Zoning Permits for such STRUCTURES shall be issued for a maximum six month period and may be renewed for an additional six months upon request.

**SECTION 660 TEMPORARY DWELLINGS**

During the construction of a PERMANENT DWELLING on a lot, a temporary dwelling is permitted. Such STRUCTURES as are permitted under this Section shall be removed prior to the issuance of a Certificate of Occupancy for the PERMANENT DWELLING.

**SECTION 670 LOTS IN TWO ZONES**

The Development Review Board, under the conditions described herein, is authorized to permit, as a CONDITIONAL USE, the relocation of the Shoreland Residential (R6) district boundary not more than one hundred (100) feet from its location as shown on the OFFICIAL ZONING MAP into an adjoining district. The Board is so authorized only where the district boundary divides a parcel which was in single ownership when these Regulations were adopted. This Section shall not apply where the district boundary is a highway. The applicant for such a change shall be required to submit a survey of the new location of the ZONING DISTRICT boundary.

**SECTION 671 Lots in Forestry/Conservation/Scenic Ridgeline District and Agricultural/Rural Residential District**

When a parcel of land occurs in both the Forestry/Conservation/Scenic Ridgeline District and the Agricultural/Rural Residential District, the portion of the lot occurring in the Forestry/Conservation/Scenic Ridgeline District can be used to satisfy LOT AREA requirements of the Agricultural/Rural Residential District. The minimum area of that lot must satisfy the area requirements of the Agricultural/Rural Residential District. At least two ACRES of land must occur within the Agricultural/Rural Residential District. BUILDABLE ENVELOPES for any permitted or CONDITIONAL USE occurring in the portion of the lot contained within the Agricultural/Rural Residential District must occur entirely within the Agricultural/Rural Residential District, and must conform to the lot dimension requirements of that district, except where permitted as a CONDITIONAL USE under Section 483.

**SECTION 680 EXCAVATION AND FILL**

In any district, dumping of refuse and waste (rubbish) material for FILL is prohibited, except in a State approved sanitary landfill.

Routine maintenance and landscaping of existing property that does not cause changes in runoff onto an adjacent property is exempt from this regulation.

Excavation and fill are exempt from Site Plan Approval and Zoning Permit requirements providing the grading action still satisfies all of the following criteria:

- (1) Grading action of less than 100 cubic yards.
- (2) Cut, fill or excavation less than 5' in vertical dimension that will maintain a 2' horizontal dimension to 1' vertical dimension slope ratio.
- (3) The existing ground slope does not exceed a 2' horizontal to a 1' vertical slope ratio.
- (4) The grading action is not within Shoreline, Floodplain, Wetland and Streams.
- (5) Complies with zoning setbacks for structure.
- (6) Is the only exempt grading action to occur within a 5 year period on an individual lot or series of lots in contiguous ownership.

**SECTION 690 DISTANCE FROM SURFACE WATERS****SECTION 691 Buildings**

Unless otherwise provided by the Development Review Board in a PLANNED UNIT DEVELOPMENT, no building shall be closer than fifty (50) feet from the ordinary high water mark of any stream, river or brook.

**SECTION 692 Shoreline**

Existing trees and ground cover along any SHORELINE, body of water or fully carrying spring flood waters shall be maintained for a distance of 25 feet from the SHORELINE or body of water to protect against erosion.

**SECTION 700 PUBLIC FACILITIES**

The following uses may be regulated only with respect to location, size, HEIGHT, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, 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:

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

**SECTION 710 PROHIBITED USES**

- 710.1 The OUTDOOR STORAGE of more than one (1) vehicle on the same property without a valid Vermont State Inspection Sticker and a valid Registration is specifically prohibited in all districts. All such pre-existing USES shall be required to conform to these Regulations and all applicable State and local regulations.
- 710.2 No USES shall be permitted which are noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes, or which present a hazard to public health and safety. This Section shall not be interpreted to prohibit agricultural USES in ZONING DISTRICTS in which AGRICULTURE is a permitted USE.

**SECTION 720 WATERCOURSE AND DRAINAGE AREAS**

No natural water course, drainage area or wetland shall be piped, dammed, filled, dredged, or altered in any way without the written approval of the Milton Development Review Board and, where applicable, the State Department of Water Resources and U.S. Army Corps of Engineers. The Development Review Board may require review of all proposals by a professional engineer at the expense of the applicant. The flood carrying capacity within any altered or relocated portion of a water course shall be maintained.

**SECTION 730 VACATION TRAILER AND TENT CAMPS**

Any lot on which three or more vacation trailers or tents are occupied for a period greater than one week per year shall be considered a VACATION TRAILER OR TENT CAMP. All such camps shall be required to conform to Vermont Health Regulations and to all applicable provisions of this Ordinance including Site Plan review. In any ZONING DISTRICT, no portable DWELLING UNIT outside of a VACATION TRAILER OR TENT CAMP shall be occupied in excess of 21 days per year without a valid Zoning Permit.

**SECTION 740 TEMPORARY SPECIAL SALES**

TEMPORARY SPECIAL SALES (for example, auctions, garage sales, and lawn sales) shall be permitted in all districts with the following restriction: no auction shall last for more than five (5) cumulative days at the same location per year and no garage sale shall last for more than fourteen (14) cumulative days per year. Special sales exceeding these limits shall be considered to be a commercial USE and shall be regulated as such. No lot shall be used for VENDOR SALES for more than one (1) day per year. No activity related to such sales shall be located within any right-of-way. VENDOR SALES in excess of one (1) day shall be considered to be a commercial USE and shall be regulated as such, requiring Development Review Board approval under Site Plan review.

**SECTION 750 UTILITY FACILITIES**

Utility facilities shall be permitted USES in all districts, with the exception of WIRELESS COMMUNICATION FACILITIES which shall be conditional USES in all districts and subject to Development Review Board review and approval as described in Appendix B of these regulations, entitled *Wireless Communication Facilities Regulations*. In the FORESTRY/ CONSERVATION/SCENIC RIDGELINE District, utility facilities must comply with the HEIGHT limitation as per Section 560 and Section 481. All utility facilities shall be required to

be reviewed under Section 800 of these Regulations. All district SETBACK requirements must be met and all such USES must be suitably screened against light, fumes, noise, or unsightliness and protected against becoming "attractive nuisances."

***Exemptions to Section 750:***

- Public utility power generating plants and transmission facilities regulated by the Vermont Public Service Board under 30 V.S.A. Section 248 are exempt from these regulations.
- Residential renewable energy structures and/or facilities on the same or an adjacent lot with, and of a nature customarily and clearly incidental and subordinate to, the PRINCIPAL USE or STRUCTURE, shall be considered an ACCESSORY STRUCTURE and shall be subject to Section 580 of these regulations (unless addressed in Section 160 and 900 of these regulations).

**SECTION 760 PUBLIC MONUMENTS AND STATUES**

The placement of public monuments and statues accessible to the general public, regardless of property ownership, shall be allowed in all zoning districts with approval by the Select Board. Public monuments shall be exempt from the dimensional requirements of all zoning districts, however shall conform to Section 815.

**SECTION 770 ETHICAL CONSIDERATIONS**

Members of the Planning Commission and Development Review Board shall comply with the provisions of Section 701 – Conflict of Interest and Section 703 – Code of Ethics of the Town Charter.

**SECTION 780 COMMERCIAL RETAIL OCCUPANCY LIMIT**

The maximum space that may be occupied by a single commercial retail business in a single building of any size shall not exceed 65,000 square feet.

## **ARTICLE VIII DETAILED REGULATIONS**

### **SECTION 800 SITE PLAN REVIEW**

Site Plan approval, granted in accordance with this Section by the Milton Development Review Board, shall be required before a Zoning Permit is issued for any USE in any district with the exception of SINGLE FAMILY DWELLINGS, DUPLEXES, and TRIPLEX – OWNER OCCUPIED on single lots, ACCESSORY residential STRUCTURES, and all agricultural USES.

### **SECTION 801 Administrative Review**

- 801.1 Minor amendments to Site Plans may be approved by the Zoning Administrator/Acting Zoning Administrator.
- 801.2 Minor amendments are defined as follows:
- (a) A modification of an approved Site Plan, which does not involve changes to curb cuts or traffic circulation patterns. Such modifications shall not result in an increase of more than 10% or 5,000 square feet in a building's GROSS FLOOR AREA or total LOT COVERAGE, whichever is less.
  - (b) A change of USE, which involves no exterior changes to the property including modifications to building or lot coverage, parking and circulation, landscaping and grading.
  - (c) Minor exterior changes to a building's façade, such as a vestibule, awning, door or window change.
  - (d) A PLANNED UNIT DEVELOPMENT which involves the division of an existing STRUCTURE into two or more units but does not involve an increase in the square footage of the building, new curb cut to a public highway, new access to any other lot, additional paved parking areas, or new patterns of circulation.
  - (e) Exterior and interior changes to a building (e.g., addition of new windows and doors) which do not involve an increase in the TOTAL GROSS FLOOR AREA of the building.
- 801.3 The Zoning Administrator/Acting Zoning Administrator may decide to forego administrative review of any Site Plan, in which case, the Town Planner shall submit the Site Plan to the Development Review Board for review.
- 801.4 The Zoning Administrator/Acting Zoning Administrator's decision to approve, deny or send a minor amendment to the Development Review Board shall be made within 60 days after the date upon which a complete Site Plan application is submitted. Failure to act within said period shall be deemed approval. Copies of the Zoning Administrator/Acting Zoning Administrator's decision, along with findings of fact, shall be sent to the applicant. A report summarizing all Site Plan review decisions by the Zoning Administrator/Acting Zoning



Administrator shall be presented to the Development Review Board following such decision.

- 801.5 A public notice shall be sent to all abutters upon determination that the minor amendment application is complete. The public notice shall describe the proposed minor amendment and inform the abutter that a public hearing can be requested within 15 days of the date the notice was sent out.
- 801.6 Any interested party may appeal a minor amendment decision of the Zoning Administrator/Acting Zoning Administrator to the Development Review Board within 15 days of the date of the decision. Notice of an appeal shall comply with the provisions of VSA Title 24, Section 4465. The Development Review Board shall review an appeal in accordance with Section 960 of these Regulations.
- 801.6 All minor Site Plan amendments for Administrative Review shall be required to submit all information required in Section 803 to the extent that it is applicable.

**SECTION 802 *Site Plan Review Standards and Procedures***

- 802.1 In reviewing Site Plans, the Development Review Board may impose appropriate conditions and safeguards to meet the standards of this section.
- 802.2 Once the Planning and Zoning Department Staff determines that a Site Plan application contains all information required in Section 803, the Development Review Board shall act to approve or disapprove any Site Plan within forty-five (45) days after the closing of the final public hearing. Failure to act within this time period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.
- (a) The Development Review Board may consider the following in its review of a Site Plan application:
  - (b) Maximum safety of vehicular and pedestrian circulation on site, between the site and adjacent roads and sidewalks, and between the site and adjacent land uses.
  - (c) Adequacy of traffic circulation, parking, and loading facilities.
  - (d) Impacts on capacity of roadways and other transportation facilities in the vicinity.
  - (e) Adequacy of landscaping, screening, and outdoor lighting.
  - (f) Impacts on the Town's ability to provide adequate sewer, water, fire, police, or other municipal services and facilities.
  - (g) Suitability of the site for the proposed scope of development, including due regard for the preservation of existing natural and historical resources.
  - (h) Consistency with the Comprehensive Plan.

**SECTION 803 Submission of Site Plans and Supporting Data**

The Applicant must submit four (4) sets of plans drawn to scale with fifteen (15) reductions of the plans and supporting written materials. The Site Plan application shall include the following information:

- 803.1 Project title and site address. Name and address of the Applicant, the property owner of record, and adjoining landowners. Name and address of the PERSON or firm preparing the map. Scale of the map, north point and date.
- 803.2 Deed reference(s), Lister's tax map and parcel number, and copies of any deed restrictions or covenants.
- 803.3 All existing features, including but not limited to, boundaries, total area of the lot, contours, drainage patterns and storm drainage systems, STRUCTURES and land USES, trees, shrubs and other vegetation, wetlands, floodplains, rock outcroppings, STREETS (public and private) and the associated rights of way, driveways, outdoor lighting, signage, sidewalks, alternate transportation paths, easements and rights-of-way.
- 803.4 A survey of the entire property is required.
- 803.5 All proposed improvements, including but not limited to, STRUCTURES, DRIVEWAYS, contours depicting site grading, off-street parking and loading spaces, circulation, sidewalks, alternative transportation paths, and SIGNS.
- 803.6 A landscaping plan showing locations of all existing and proposed plantings, a plant list with species, size and quantity. A written cost estimate of all landscaping prepared by a professional landscape architect or landscape contractor.
- 803.7 Building elevations indicating location and HEIGHT of all existing and proposed structures.
- 803.8 An outdoor lighting plan showing locations and designs of existing and proposed outdoor lighting. This shall include all flood and/or security lights, building mounted lights, and parking and street lights. At a minimum, outdoor lighting specifications shall be provided showing photometric data, types of fixtures and lamps, and mounting height of fixtures.
- 803.9 A utility plan showing existing and proposed public water and sewer, private sewage disposal systems, wells, storm drainage facilities, fire protection details, electric, gas, telephone, cable and all other utility lines.
- 803.10 Estimate of daily and peak hour traffic generation and a report on traffic impacts at project access points, major intersections nearby and other locations.
- 803.11 Any other data or information that the Development Review Board shall view as necessary in applying the Site Plan review standards.
- 803.12 The Development Review Board may waive any of the above requirements of Site Plan Review.

**SECTION 804 Special Provisions Applicable to the M1, M2, M4 and DB1 Zoning Districts**

- 804.1 Uses may mix as long as they are sited and designed of LIKE KIND QUALITY with neighboring properties. Houses, offices and stores may be above, next to, or in the general vicinity of each other; but consideration should be given to elements of common concern - hours of operation, lighting, shared parking, etc.
- 804.2 Buildings should be placed close to the sidewalks. Street trees and green belts along sidewalks should be constructed to provide a pedestrian-friendly environment.
- 804.3 Site design should accommodate pedestrian movements. Sidewalks/bike paths will be encouraged along all public streets in the district. Buildings, parking lots and internal walkways should be located to encourage connections to those public sidewalks and bike paths.
- 804.4 Street trees should be encouraged along major connecting roads and pedestrian spaces to be placed within a green belt of at least 6 feet in width and spaced no more than 50' apart. Tree grates may be used in places with limited width.
- 804.5 Parking should not be allowed to dominate the site. Parking spaces should be limited to the needs of the use. Some front yard parking may be allowed at the discretion of the DRB, but parking lots should be behind or on the side of buildings. Where parking lots are visible from the public street, appropriate landscaping should be included. On-street parking may be possible along some roadways.
- 804.6 OPEN SPACE Requirements for developments with ten (10) or more multi-family residential units. The proposal shall provide for the preservation and maintenance of OPEN SPACE which is designed to be an integral part of the whole development. The size, shape and locations of OPEN SPACE shall be approved by the Development Review Board. The OPEN SPACE shall be protected by appropriate legal devices to ensure the continued USE of such lands for the purpose of AGRICULTURE, FORESTRY, recreation or conservation. Such mechanisms include dedication of development rights, conservation easements, homeowners associations, restrictive covenants, conveyance to land trusts, or other appropriate grants or restrictions approved by the Development Review Board. Permitted future USES and maintenance of the OPEN SPACE shall be specifically identified as part of the approval of development with ten (10) or more multi-family units. An improved or unimproved right-of-way to the OPEN SPACE must be provided so that all residents of the development shall have access to the OPEN SPACE.
- (1) Minimum OPEN SPACE Requirements:
- (a) In the M1, M2, M4, DB1 Zoning Districts, a minimum of 20 percent of the land shall be required as OPEN SPACE for all developments with ten (10) or more residential units.
  - (b) In the M1, M2, M4 Zoning Districts, a minimum of 50% of the OPEN SPACE shall be considered community recreation space, where the intent is to encourage the creation of places for recreation and civic activities that foster neighborliness and the space shall be contiguous. This space shall not consist of BUFFER STRIPS, parking lots, areas between buildings, or

undevelopable land as listed in Section 856.1(b). This area shall be maintained by the development, unless accepted by the town as public property. Appropriate legal devices to ensure the continued USE of such lands for continued neighborhood use shall protect it. The DRB shall approve the location and use of this community recreation space.

**SECTION 805 *Special Provisions Applicable to the M3 Zoning District***

- 805.1 All of the special provisions noted in Section 804 shall apply to the M3 Zoning District.
- 805.2 Where possible, access drives and parking areas should be placed under existing VELCO transmission lines to avoid using open land areas for such uses. Access to this area should also support pedestrian circulation and drop-off areas for use of recreational facilities. Handicapped accessibility and connections to existing trails should be carefully considered for all projects within this district.
- 805.3 Additional access points to this area should be considered. Proposed access roads should be encouraged to align with existing roads.

**SECTION 806 *Landscape Plan Requirements***

- 806.1 A landscaping plan, as required by Section 803.6, shall be required to accompany all Site Plans. The Development Review Board shall determine the appropriateness of the proposed landscaping and screening. In considering a Site Plan application, the Development Review Board may require modifications to the proposed landscaping plans in order to more fully implement the purpose of this Section.
- 806.2 All landscaping plans shall include the following information: all existing plantings, woodlands, etc. on the site, the location of all proposed landscaping, and planting specifications for all proposed landscaping to include the common name, botanical name, size, and quantity.
- 806.3 All landscaping plans shall be accompanied by a written cost estimate prepared by a professional landscape architect or landscape contractor. The applicant shall provide a performance bond or other form of security to the Town to guarantee the completion of all required landscaping. The bond, or other form of security, shall also guarantee all plantings for a period of three years from installation.
- 806.4 The Development Review Board may require landscaping in accordance with the following schedule. The minimum planting cost shall not include the cost of seeding, mulching, sodding, etc. for lawns or grassed areas.

<b>Total Land Development Cost</b>	<b>Minimum Planting Cost (% of Development Cost)</b>
0 - \$250,000	3%
\$250,001 to \$500,000	2%
> \$ 500,000	1%

- 806.5 In evaluating landscaping requirements, some credit may be granted for existing trees or for site improvements other than tree plantings as long as the objectives of this section are not reduced.
- 806.6 The FRONT SETBACK area shall be landscaped in accordance with the approved Site Plans and maintained in good appearance.
- 806.7 In all districts other than the MIXED USE Zoning Districts, where non-residential USES are located adjacent to residential buildings, there shall be plantings or attractive solid fencing to screen all outdoor lighting and parking from the view of the ground floor of adjacent residential buildings. In residential districts, non-residential USES shall be screened from adjacent properties. This provision shall apply even though the adjoining property is not developed. In all districts where permitted, auto service stations shall be screened in the same manner from all abutting properties.
- 806.8 Landscaping and/or fencing shall be provided to screen trash/garbage containers/dumpsters from view of adjoining properties and roads. Screening shall surround the trash/garbage containers/ dumpsters on three sides.

#### **SECTION 810 PARKING AND LOADING REQUIREMENTS**

The number and location of parking and loading spaces associated with any lot or USE shall comply with the following requirements.

#### **SECTION 811 Parking Plans**

A dimensioned plan showing the intended location and amount of area allocated to each parking space, the required access, the type of drainage facilities, and the location of barriers shall be submitted for Development Review Board approval with each Site Plan.

#### **SECTION 812 Parking Specifications**

- 812.1 The size of parking spaces shall have minimum dimensions of 9 feet in width and 18 feet in length.
- 812.2 The following number of parking spaces shall be provided for each USE listed below unless waived by the Development Review Board. Where the number of parking spaces is based on GROSS FLOOR AREA, the GROSS FLOOR AREA of the entire STRUCTURE shall be the basis for the calculation of parking requirements. If a USE is not listed below, the required parking spaces will be as required by the Development Review Board.

Use	Parking Spaces Required
ASSISTED LIVING FACILITIES	1 per 3 occupants plus 1 for each 2 employees
AUCTION	1 for each 200 sq. ft. devoted to the auction
AUTOMOBILE REPAIR AND FILLING STATIONS	3 for each working space plus 1 for each employee
AUTOMOTIVE SALES	2 for every 1,000 square feet of GROSS FLOOR AREA
BAKERY/DELICATESSEN	1 for each employee plus 3 for each 1,000 sf ft of gross floor area
BED AND BREAKFAST	1 per room
CHILD DAY CARE CENTERS	1 for each employee plus 1 per 5 children
CHURCH	1 per 4 seats
CLINIC	3 for every 1,000 sq ft of GROSS FLOOR AREA
COMMERCIAL PLANT NURSERIES, GREEN HOUSES LANDSCAPING SERVICE	1 for each employee plus 3 for each 1,000 square feet of GROSS FLOOR AREA
CONSTRUCTION AND AGRICULTURAL EQUIPMENT SALES AND SERVICE	1 for each working space plus 1 for each employee
DISTRIBUTING	2 for each 3 employees
DRY CLEANING FACILITIES	3 for every 1,000 square feet of GROSS FLOOR AREA
DRY CLEANING PLANT	1 for every employee
ELDERLY HOUSING COMPLEX	Section 881.3 for requirement
HOSPITALS	1 per 3 beds
INDOOR RECREATION	1 space for every 200 square feet of GROSS FLOOR AREA
KENNEL	2 plus 1 per employee
LAUNDROMAT	3 for every 1,000 square feet of GROSS FLOOR AREA
MANUFACTURING	1 for each 3 employees
MOTEL	1 per room plus 1 per employee
NEIGHBORHOOD CONVENIENCE STORES	1 space for every 150 square feet of GROSS FLOOR AREA
OFFICE, GENERAL	3 for every 1,000 square feet of GROSS FLOOR AREA
OFFICE, MEDICAL	3 for every 1,000 square feet of GROSS FLOOR AREA
OUTDOOR RECREATION	1 space for each 3 persons accommodated by outside

	facilities
PERSONAL SERVICES	3 for every 1,000 square feet of GROSS FLOOR AREA
PRINTING FACILITY	3 for every 1,000 000 square feet of GROSS FLOOR AREA
PRIVATE FACILITY	1 for every 400 000 square feet of GROSS FLOOR AREA
PUBLIC FACILITY	1 per 4 seats, 1 per each teacher and staff for elementary and junior high, 1 per 4 students for high school and colleges
RESEARCH AND DEVELOPMENT LABORATORIES	1 for each employee
RESIDENTIAL USES	<p>These spaces shall be unobstructed. A parking space within a garage that is blocked by another space in the driveway will not qualify for a required parking space.</p> <p>(a) 2 spaces per dwelling unit for single family and multifamily units;</p> <p>(b) 1 space per STUDIO;</p> <p>and visitor parking as follows:</p> <p>(c) 1 visitor parking space for every 4 residential units</p> <p>(d) 1 visitor parking space for every 3 units for developments with 10 or more units.</p> <p>(e) Visitor parking is not required for developments containing exclusively single-family homes.</p>
RESTAURANT RESTAURANT, FAST FOOD	1 per 4 seats plus 1 per employee
RETAIL STORES	1 for each employee plus 3 for each 1,000 square feet. of GROSS FLOOR AREA
SCHOOL	1 per each teacher and staff for elementary and junior high; 1 per 4 students for high school and colleges
SLAUGHTER HOUSE	.5 per 1,000 square feet of GROSS FLOOR AREA
UTILITIES AND UTILITY OFFICES - PUBLIC AND PRIVATE	1 per employee, minimum of 2 spaces
VACATION TRAILER CAMPS	2 per trailer site
WAREHOUSING, PUBLIC or PRIVATE	2 for each 3 employees

812.3 Parking lots for other than single FAMILY, DUPLEX, TRIPLEX – OWNER OCCUPIED, and multifamily residential dwellings shall include parking for handicapped PERSONS according to the following specifications and shall comply with the latest standards of the Americans

with Disabilities Act. Parking spaces for the handicapped shall be set aside in close proximity to entrances and identified with SIGNS for USE by individuals with physical disabilities. Building entrances shall be designed for access by individuals with physical disabilities. Handicapped parking spaces shall have minimum dimensions of 14 feet in width and 18 feet in length. The parking spaces for the handicapped shall be included in the total number of spaces required.

- 812.4 Parking spaces shall be arranged and physical barriers provided so that no part of any vehicle will encroach into any public right-of-way.
- 812.5 All open parking lots shall be surfaced with at least eight (8) inches of compacted gravel or an equivalent material. In addition, the Development Review Board may require paving.
- 812.6 All parking lots shall be properly drained. The parking plan shall also indicate the location and type of stormwater drainage facilities. There shall be no increase in stormwater run-off as a result of any development approval. To the greatest extent possible, on site stormwater drainage facilities are encouraged.

### **SECTION 813 Driveways**

- 813.1 As part of the Site Plan review, the location and design of DRIVEWAYS and their intersections with STREETS or highways shall require review by the Town Engineer. Where applicable, a letter of intent shall be submitted to the Development Review Board from the Vermont Agency of Transportation.
- 813.2 Number of DRIVEWAYS - Unless specifically approved by the Development Review Board, there shall be not more than one DRIVEWAY for each lot.

### **SECTION 814 Parking Lot Design Standards**

All parking lots shall comply with the following minimum design standards. The Development Review Board may require higher standards.

- 814.1 Minimum DRIVEWAY Spacing Requirements:
- (1) Common DRIVEWAYS - Joint access and common/shared DRIVEWAYS are encouraged to minimize the number of DRIVEWAYS and curb cuts.
  - (2) Minimum spacing between DRIVEWAYS on the same side of the STREET - For ARTERIAL STREETS, the minimum distance between DRIVEWAYS shall be 150 feet for two-way DRIVEWAYS, where practical. Distances between one-way DRIVEWAYS shall be 75 feet. If DRIVEWAYS are signalized, a minimum spacing of 500 feet shall be required.
  - (3) Minimum distance between DRIVEWAYS and opposite sides of the STREET - DRIVEWAYS should be in direct alignment. If direct alignment cannot be provided, a minimum separation of 150 feet between DRIVEWAYS is required.
- 814.2 DRIVEWAY Intersection Clearance - The minimum distance between an intersection and a DRIVEWAY shall be:
- ARTERIAL STREET - 200 feet  
COLLECTOR STREET - 75 feet



## LOCAL STREET - 50 feet

Where corner clearances cannot be maintained due to narrow property FRONTAGE, a minimum corner clearance of 50 feet is required, with a prohibition against left turns from the DRIVEWAY by providing DRIVEWAY or median channelization.

## 814.3 Minimum Internal Road, DRIVEWAY and Aisle Widths:

- (1) For parking lots with fewer than five spaces, the minimum width for DRIVEWAYS and aisle shall be twelve feet.
- (2) For parking lots with five or more spaces, the minimum width for DRIVEWAYS, which do not directly access parking spaces, shall be twelve feet for one-way traffic and 24 feet for two-way traffic.
- (3) For parking lots with five or more spaces, the minimum aisle width between parking spaces shall be:
 

90 degree parking -	24 feet
60 degree parking - one-way -	15 feet
two-way -	24 feet
45 degree parking - one-way -	12 feet
two-way -	24 feet
- (4) For parking lots with fifty or more spaces, an internal circulation road, which meets the minimum design and construction standards of a PUBLIC ROAD, shall be provided. Parking will not be permitted on an internal circulation road.

## 814.4 Width of Access DRIVEWAYS - For parking lots with five or more spaces, the minimum width of DRIVEWAYS at their intersection with public STREETS shall be:

One lane - 15 feet (one-way)  
 Two lanes - 24 feet  
 Three or more lanes - 12 feet per lane

## 814.5 Minimum Curb Return Radius - For parking lots with five or more spaces a minimum curb return radius of 20 feet is required.

## 814.6 Landscaping for Parking Lots - For parking lots with thirty or more spaces, landscaped islands at least five (5) feet in width shall be installed at intervals not exceeding every 100 feet. A minimum of 10 percent of the total parking lot area, excluding perimeter areas, shall be landscaped.

## 814.7 Minimum DRIVEWAY QUEUE STORAGE LENGTH - For parking lots with thirty or more spaces, the following minimum QUEUE STORAGE LENGTHS shall be provided.

- (1) Residential Development
  - Fewer than 25 units - 40 feet
  - 25 or more units - 60 feet
- (2) Commercial Development
  - Under 20,000 sq. ft. of GROSS FLOOR AREA - 40 feet
  - 20,000 to 200,000 sq. ft. of GROSS FLOOR AREA - 60 feet
  - Over 200,000 sq. ft. of GROSS FLOOR AREA - 100 feet
- (3) Industrial Development - 50 feet

**SECTION 815 Visibility Triangles**

- 815.1 In all districts on a CORNER LOT, there shall be no obstruction to vision within the triangular area formed by the intersection of the edge of the two (2) STREETS and a third line joining them at points twenty-five (25) feet away from their intersection.
- 815.2 For all developments requiring Site Plan review, a visibility triangle shall be maintained at the intersection of all DRIVEWAYS and public STREETS. The visibility triangle is the triangular area formed by the edge of the STREET, the edge of the DRIVEWAY, and a third line joining them at points twenty-five (25) feet from their intersection. No parking shall be permitted within this visibility triangle.

### **SECTION 816 Access Management**

- 816.1 In order to minimize the amount of congestion and turning movements on state and principal highways by future commercial, industrial, residential, and MIXED USE development, the following shall apply:
- (a) The Development Review Board shall require common access roads to serve multiple properties and/or lots located along state highways.
  - (b) In the event that the Development Review Board finds that meeting the above requirement is impracticable, the Board may allow curb cuts onto such highways. Wherever possible, such curb cuts shall be not less than 300 feet from the intersection of a road or highway. Wherever possible, common access points and additional connections to adjacent properties, roads and/or highways are encouraged.
  - (c) If a proposed development is anticipated to generate an amount of vehicles per day which may and/or will involve improvements to existing roadways, the Development Review Board may require the proposed development to include a right-of-way easement for a future access road. At such time as the developer is required to install the traffic improvements, the common access road will be constructed to the Town of Milton Public Works Specifications. Costs of such construction shall be borne by the owners of the developments affected and shall be distributed according to the share of total traffic generated as estimated by traffic counts or the most recent trip generation rates published by the institute of Transportation Engineers.
  - (d) The Development Review Board may require fewer access points be provided and access be combined by common parking areas and/or common access roads internal to the lots. Such access roads and parking areas shall be placed on the side and rear of developments.

### **SECTION 817 Pedestrian Circulation**

- 817.1 In the M1, M2, M3, M4, M5, M6, DB1, and R1 zoning districts, sidewalks or multi-use paths shall be required along public streets and roads and may be required along private streets and roads. Sidewalks shall be constructed to the Town of Milton Public Works Specifications.
- 817.2 In other zoning districts, the DRB may require pedestrian walkways to facilitate pedestrian

movements to shopping, schools and recreation areas.

### **SECTION 818 Off-Street Loading and Unloading Space**

Every STRUCTURE constructed or used for business, trade or industry shall provide adequate space on the premises for the unloading and loading of vehicles in addition to the required parking. A minimum of one space (10 feet by 60 feet) shall be required for each 10,000 square feet of GROSS FLOOR AREA.

### **SECTION 819 Bicycle Parking Space**

The Development Review Board, as part of Site Plan review, shall require the applicant to provide facilities for bicycle parking. USES which may require bicycle racks include, but are not limited to, shopping centers, RESTAURANTS, grocery stores, recreation facilities, MOTELS, government offices, schools, hospitals, industries, and mass transit terminals.

### **SECTION 820 OUTDOOR LIGHTING**

- 820.1 Outdoor lighting should be designed, installed and maintained to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, along streets and sidewalks, and not cause glare or direct illumination onto adjacent properties or streets.
- 820.2 All lighting fixtures should be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA), whenever possible. The design for an area may suggest the use of outdoor lighting fixtures of a particular "period" or architectural style, or there may be existing fixtures to be retained. In such cases, the non cut-off fixtures may be used either as alternates or supplements.
- 820.3 The maximum HEIGHT for parking and streetlights should not exceed 20 feet from the ground to top of fixture.
- 820.4 All lamps shall be metal halide, color corrected high pressure sodium, LED, fluorescent or compact fluorescents. Wherever practicable, lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.
- 820.5 Electrical service to outdoor lighting fixtures should be underground. Outdoor lighting fixtures should not be mounted on utility poles.

### **SECTION 830 SIGNS**

It is the purpose of this Section to permit the USE of SIGNS for both identification and limited advertisement. No SIGN, billboard or exterior graphic display shall be permitted except as provided in this Section.

### **SECTION 831 Permitted Signs**

The following SIGNS are authorized:

- 831.1 Business Identification SIGNS:  
(1) Business identification SIGNS are permitted for the purpose of identifying public or

community facilities, commercial, MANUFACTURING or recreational businesses, and subdivisions. The following table shows the permitted number and size of SIGNS based on the FRONT SETBACK of the primary STRUCTURE.

Front Setback of Primary Structure	Signs Permitted (See Section 834 for Restrictions)
< 100 feet	One building-mounted SIGN not exceeding twenty-four (24) square feet in area <u>and</u> one free-standing SIGN not exceeding twenty-four (24) square feet in area.
> 100 feet	One free-standing SIGN not exceeding twenty-four (24) square feet in area and one building-mounted SIGN which may not exceed the greater of twenty-four square feet or one (1) square foot of area for each two (2) linear feet of the width of the building face to which it is ATTACHED, provided however that no such SIGN shall exceed sixty (60) square feet in area

- (2) A business identification SIGN may contain a product name but no pricing or other advertising information.

831.2 Advertising SIGNS:

- (1) One free-standing on-premise advertising SIGN not exceeding six (6) square feet in area per side is permitted.
- (2) At any business selling gasoline, there shall be permitted one additional on-premise SIGN not exceeding sixteen (16) square feet in area per side for the purposes of advertising the brand of gasoline sold at such service station. Additional gasoline pricing SIGNS are also permitted provided that the total area of these SIGNS does not exceed sixteen (16) square feet per side.

831.3 Other Business SIGNS:

- (1) One on-premise TEMPORARY SIGN is permitted, not to exceed twenty-four (24) square feet in area per side, in conjunction with the opening or closing of a business, a special sale, promotional event, or change of ownership or management, not to exceed sixty-five (65) cumulative days in any 12-month period. Grand opening banners are permitted for forty-five (45) days in addition to the 65 cumulative calendar days limit. Grand opening banners must comply with all other requirements of this section.
- (2) One sandwich board sign is permitted per business, not to exceed nine (9) square feet in area per sign face and shall be placed no closer than ten (10) feet from a front property line and must be removed daily.
- (3) For CORNER LOTS or through lots (i.e., lots having FRONTAGE on two public STREETS), the Development Review Board may permit three SIGNS, provided that at least one of the SIGNS is a building-mounted SIGN.
- (4) For SIGNS requiring its approval, the Development Review Board shall consider the aesthetic impact of proposed SIGNS, including the size and shape of the SIGN, the compatibility of the SIGN with the other SIGNS on the same building or within the same complex, the harmony of the color and design of the proposed SIGN with neighboring SIGNS and buildings, and the compatibility of the SIGN with natural aesthetic features.

- 831.4 Business Signs for Commercial or Industrial Subdivisions and Planned Unit Developments:
- (1) Business directory signs may be permitted by the Development Review Board for each commercial or industrial subdivision and PLANNED UNIT DEVELOPMENT. Said business directory signs may consist of an identifying SIGN plus a SIGN for each business located in the commercial or industrial subdivision or PLANNED UNIT DEVELOPMENT.
  - (2) Business directory signs for commercial or industrial subdivisions and planned unit developments shall not have an undue adverse impact on the character of the area. When reviewing a sign proposal, the Development Review Board shall review the following in relation to the site and the surrounding area:
    - (a) Compatibility with the overall master plan for the proposed property;
    - (b) Visual impacts;
    - (c) Lighting;
    - (d) Landscaping; and
    - (e) Location and size.
  - (3) For commercial or industrial subdivisions and PLANNED UNIT DEVELOPMENTS, each business may install one building-mounted SIGN not exceeding the dimensions specified in Section 831.1.
  - (4) Such business directory and building-mounted SIGNS for commercial or industrial subdivision and PLANNED UNIT DEVELOPMENT shall be required to conform to a set of design criteria, submitted by the owner or developer of the development and approved by the Development Review Board. Such criteria shall limit SIGNS to specified typescript, minimum and maximum letter height, SIGN type, SIGN placement by specifying SIGN panel location or elevations, and SIGN colors.
  - (5) Each business within the commercial or industrial subdivision or PLANNED UNIT DEVELOPMENT is allowed a TEMPORARY SIGN, not to exceed sixteen (16) square feet in area, and a sandwich board sign, not to exceed nine (9) square feet in area per sign face. See also Section 831.3.
- 831.5 Other SIGNS:
- (1) One on-premise SIGN not exceeding four (4) square feet per side identifying a private residence or a permitted HOME OCCUPATION.
  - (2) SIGNS to be maintained for not more than two weeks erected by fairs or expositions or SIGNS announcing an event of a civic, political, philanthropic, educational, cultural or religious nature.

**SECTION 832 Permits not Required**

A Sign Permit is not required for the following types of SIGNS:

- (1) Traffic, directional, warning, or information SIGNS erected by any public agency.
- (2) Official notices issued by any court, public agency, or officer.
- (3) One non-illuminated "For Sale," "For Rent," or "For Lease" SIGN not exceeding six (6) square feet in area.
- (4) Small on-premise SIGNS, not exceeding four (4) square feet in area per side for the direction, instruction or convenience of the public (e.g., SIGNS identifying rest rooms, freight entrances, posted areas, danger areas, methods of payment).
- (5) One non-illuminated SIGN for TEMPORARY SPECIAL SALES (refer to Section 740) not exceeding six (6) square feet in area.
- (6) Building-mounted business entrance identification SIGNS not exceeding two (2) square feet

- in area.
- (7) Sandwich board signs (refer to sections 831.3(2) and 831.4(5)).

**SECTION 833 Prohibited Signs**

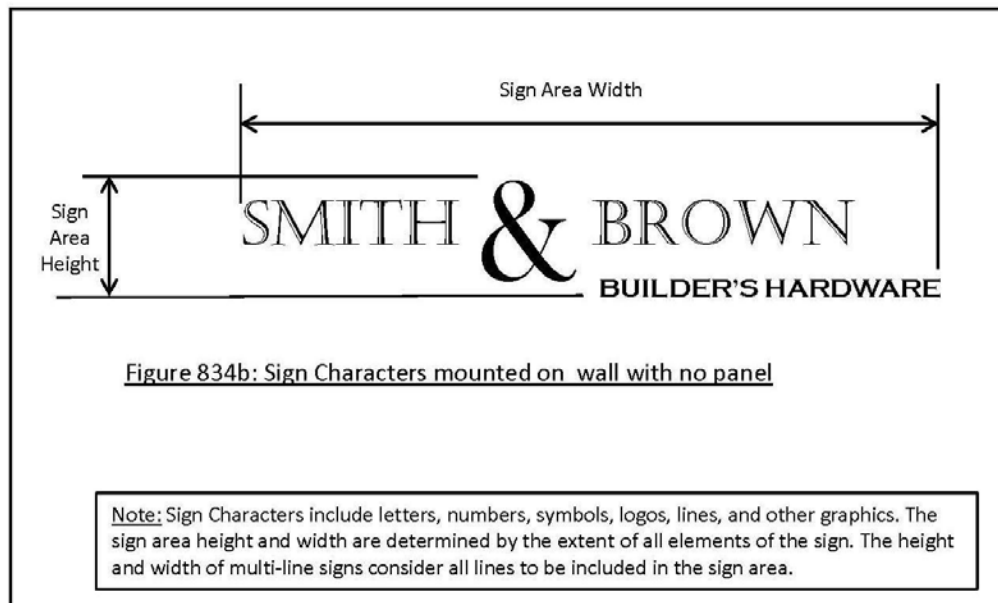
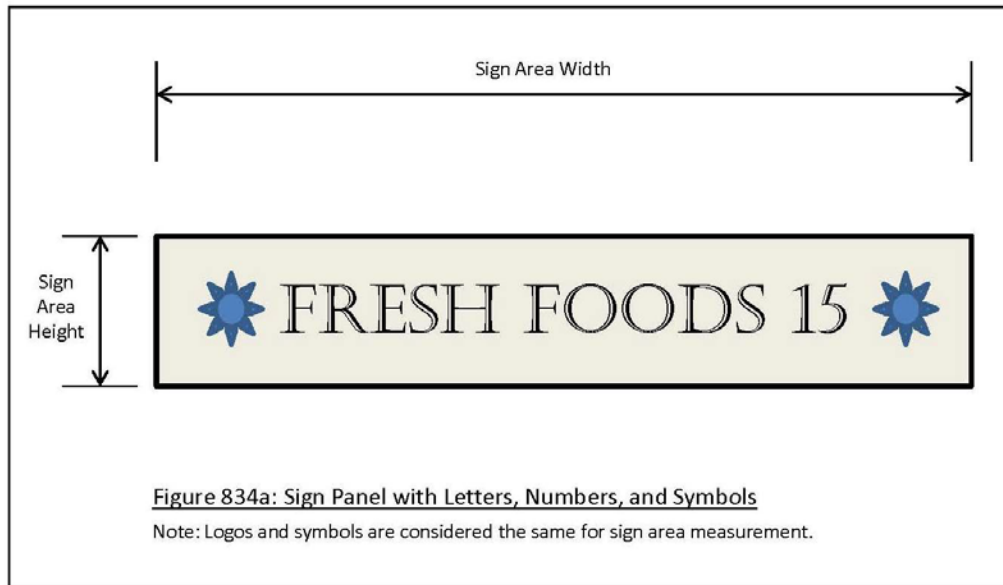
- (1) No SIGN shall prevent a clear and unobstructed view of official highway SIGNS or approaching or merging traffic.
- (2) No SIGN shall be permitted within the sight area defined by Section 815.
- (3) No SIGN shall obstruct or present a danger to pedestrian or vehicular traffic.
- (4) No SIGN or display shall contain string lighting, pennants, moving parts or similar attention gathering devices nor may they contain or support any device capable of emitting noise. No SIGN or display shall be illuminated by flashing, moving, or intermittent light.
- (5) No SIGN displaying intermittent lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, or rescue vehicles shall be permitted, nor shall any SIGN use the words "STOP," "DANGER," or any other word, phrase, symbol, or character in a manner that might mislead or confuse a vehicular driver.
- (6) No SIGN shall be erected, ATTACHED, or maintained upon any tree or drawn or painted on a rock or any other natural feature or upon any utility pole or Town or State SIGN post.
- (7) No SIGN shall be permitted which identifies or advertises a business, product, or service no longer available in the Town. Any such SIGN shall be removed within fifteen (15) days of the date of termination of the business, product, or service.
- (8) No SIGN shall be erected which is not on the premises of the activity served by the SIGN. The only exceptions to this provision are directional SIGNS permitted under stated statute.

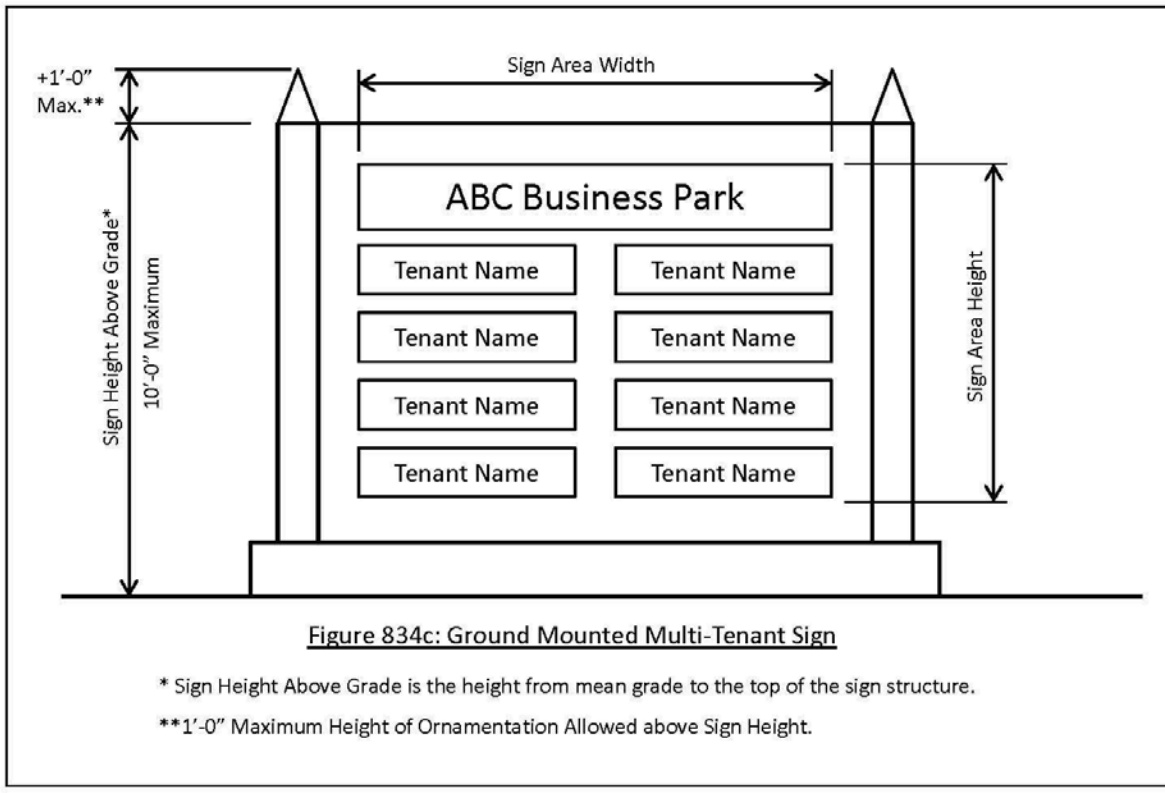
**SECTION 834 Restrictions**

All SIGNS shall conform to the requirements listed in this Section.

- (1) Sign Area: The sign area is the area of smallest geometric figure, which encompasses the facing of the sign including the copy, insignia, logo, symbol, photograph, background, and borders. (See Figures 834a, 834b, and 834c.)
- (a) In the case of signs mounted back-to-back, only one side of the sign is to be used for computation of the area. Back-to-back signs shall be defined as double-faced signs. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other sign substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces is included in the computations of area.
- (b) If a sign is attached to a ground mounted sign serving as an entrance wall, only the portion of the wall onto which either the sign faces or letters are placed shall be calculated in the sign area. Entrance wall area outside of the sign area height and width shall not be considered a part of the sign.
- (2) Sign Height: The height of a sign shall be the vertical distance from the average grade level taken at the fronting street to the highest point of the sign or its supporting equipment, whichever is highest, not including the sign's ornamentation.
- (a) Ornamentation, such as caps, spires, and finials, shall not extend more than one (1) foot from the top of the sign.
- (b) The use of berms or raised landscape areas is only permitted to raise the base of the sign to the mean elevation of the fronting street.
- (c) The maximum sign height for a freestanding sign for a single business shall be fifteen (15) feet.
- (d) The maximum sign height for a ground mounted multi-tenant sign shall be ten (10)

- feet. (See Figure 834c.)
- (3) Lighting of SIGNS shall be so placed and so shielded that rays there from will not be directly cast into the eyes of any driver.
  - (4) No SIGN which is ATTACHED to a building shall extend above its roof line.
  - (5) No freestanding SIGN shall be erected closer than ten (10) feet from a front property line.





### **SECTION 835 Other Displays**

For the purposes of these Regulations, the following types of displays shall not be considered SIGNS:

- (1) displays located wholly within the interior of a building;
- (2) displays for the convenience of drive-up or walk-up customers, such as menus at a RESTAURANT, provided that such display is not used to inform or attract the attention of PERSONS off-site;
- (3) bulletin boards or similar displays for announcing community affairs, political activities, and the like, provided that such display is not used to inform or attract the attention of PERSONS off-site;
- (4) building-mounted barber poles no greater than 36 inches in height and 9 inches in width;
- (5) devices such as clocks displaying the time, temperature, and/or date.

### **SECTION 836 Maintenance**

All SIGNS shall be well-maintained as provided in this Section. Any SIGN which is deemed to be structurally unsafe by the Zoning Administrator shall be removed or repaired by its owner or permittee. Removal or repair shall be completed within thirty (30) days of notification by the Zoning Administrator. If the owner or permittee fails to remove or repair the SIGN within the specified period, the Zoning Administrator may cause the SIGN to be removed at the owner's or permittee's expense.



**SECTION 837 Non-conforming Signs**

A non-conforming SIGN which is altered, extended, enlarged, or moved must be brought into full compliance with these Regulations. Non-conforming SIGNS may be removed for repair provided they are replaced within thirty (30) days of removal. Only the following SIGNS are considered non-conforming SIGNS:

- (a) SIGNS which were erected prior to Milton's first set of SIGN regulations (1972);
- (b) SIGNS which were erected in full compliance with Milton's SIGN regulations since the effective date of SIGN regulations; and,
- (c) SIGNS which were erected in full compliance with a permit from the Zoning Administrator, a waiver from the Development Review Board, or a variance from the Development Review Board.

SIGNS which were installed prior to December 31, 1987, shall be considered "grandfathered," that is, permitted to continue as if they were a non-conforming SIGN, subject to the same restrictions and privileges of legally-installed non-conforming SIGNS.

**SECTION 838 Administration**

- 838.1 Sign Permits: All SIGNS shall require a Sign Permit, except as provided in Section 832. All applications for Sign Permits shall be made in writing on forms supplied by the Town. The fee for a Sign Permit shall be five dollars (\$5.00). A Sign Permit shall take effect immediately; upon issuance by the Zoning Administrator. The Zoning Administrator shall, within thirty (30) days of the submission of an application, issue either an approval, a denial, or a request for additional supporting information. If additional information is required, the Zoning Administrator shall, within thirty (30) days of the final submission, issue either an approval or denial. Failure to act within these time limits shall constitute automatic approval.
- 838.2 Removal of SIGNS: SIGNS illegally placed upon Town property or within a Town or State right-of-way may be removed by the Zoning Administrator or other representative of the Town of Milton. Such SIGNS shall be retained by the Zoning Administrator for a period of at least thirty (30) days during which time the owner may reclaim the SIGN. The removal of such SIGNS shall not preclude further enforcement proceedings by the Town.

**SECTION 850 PLANNED UNIT DEVELOPMENTS (PUD)**

In accordance with the provisions of Title 24, V.S.A., Chapter 117, Section 4407(12), PLANNED UNIT DEVELOPMENTS may be permitted in all ZONING DISTRICTS in which such development is identified as a permitted USE. No PLANNED UNIT DEVELOPMENT will be approved by the Development Review Board until the applicant has demonstrated complete compliance with the intentions and requirements of this Section and the Town of Milton's Comprehensive Plan.

The purpose of PLANNED UNIT DEVELOPMENTS is to provide for flexibility in site and lot layout, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the Comprehensive Plan and bylaws; conservation of OPEN SPACE; efficient use of public facilities and services; to encourage energy efficient development and to meet the purposes, goals and objectives of the Milton Comprehensive Plan.

PLANNED UNIT DEVELOPMENTS may involve single or multiple properties, one owner or multiple owners,

and may be limited to project sites that have a minimum area as set forth in these Regulations.

The following categories of PUDs may be permitted in all ZONING DISTRICTS in which such development is identified as a permitted USE, as authorized in Articles II and III. Each category may have unique purposes and requirements, as set forth below in this article. The categories are:

Planned Unit Development – Industrial (PUD-I)  
Planned Unit Development – Commercial (PUD-C)  
Planned Unit Development – MIXED USE (PUD-MU)  
Planned Unit Development – Residential (PUD-R)

**SECTION 851 Application Requirements**

- 851.1 An application for a PLANNED UNIT DEVELOPMENT shall include all elements required for a subdivision under the Subdivision Regulations of the Town of Milton and all elements required under Section 800 "Site Plan Review" of the Zoning Regulations of the Town of Milton, except as noted.
- 851.2 The Development Review Board may waive the requirement for a metes and bounds survey, prepared by a certified land surveyor, if the Planned Unit Development does not involve the subdivision of land. However, if a metes and bounds survey is necessary for an accurate location and description of the BUILDABLE ENVELOPE and/or easements then the survey shall be required.
- 851.3 The Subdivision Plan, as prepared by a licensed professional civil engineer, certified land surveyor or landscape architect, must identify those lands that are clearly undevelopable due to environmental limitations, such as but not limited to, designated WETLANDS and wetland buffers as defined in the Vermont Wetland Rules, slopes in excess of 15%, streams and watercourses, rock formations, UNDEVELOPABLE SOILS, and flood and earth movement hazard areas. All BUILDABLE ENVELOPES must occur outside of these features.
- 851.4 The Subdivision Plan must also identify open fields, wooded areas, prime and Statewide agricultural lands.
- 851.5 The Subdivision Plan shall include all proposed lot lines, BUILDABLE ENVELOPES, the location, HEIGHT and space of all existing and proposed buildings, OPEN SPACE, landscaping, streets, driveways and off-street parking spaces and all other physical features. Elevations prepared by an architect or landscape architect shall depict the relationship of buildings, landscaping and parking areas.
- 851.6 In addition to the plan requirements noted above, the application submission shall also include the following narrative:
- (a) A description of how the design provides for the purposes of the PLANNED UNIT DEVELOPMENT, as identified in Section 850 and in the applicable ZONING DISTRICT in which the development is proposed;
  - (b) A description of the proposed number of units and how the design preserves the natural features of the land and site characteristics as identified above;

- (c) An identification of benefits to the Town of the PLANNED UNIT DEVELOPMENT over a conventional development; and
  - (d) The proposed USE of the OPEN SPACE lands and possible mechanisms for its protection.
- 851.7 Requests for waivers and their justification shall be submitted in writing by the applicant for consideration by the Development Review Board in its final approval decision.
- 851.8 After submission of an application for a PLANNED UNIT DEVELOPMENT, and before sketch plan approval, the applicant shall have temporary markers placed on the lands in order to enable the Development Review Board to locate readily and appraise the basic layout of the proposed PLANNED UNIT DEVELOPMENT in the field during their site visit.
- 851.9 The applicant shall schedule a site visit with the Development Review Board. The purpose of this site visit shall be to confirm the locations of natural features identified above, and to assist the applicant with the identification of BUILDABLE ENVELOPES.

#### **SECTION 852 General Standards**

- 852.1 All PLANNED UNIT DEVELOPMENTS shall be subject to review and approval by the Development Review Board under the Town Subdivision Regulations. The proposed PLANNED UNIT DEVELOPMENT shall be considered a minor subdivision when the proposed total number of units is six or less; the proposal shall be considered a major subdivision when the total number of units is seven or more. Applications for PLANNED UNIT DEVELOPMENTS, which are considered major subdivisions, shall only be required to hold one statutory public hearing at the preliminary stage. The Development Review Board, at its discretion, may require that a second public hearing be held at the final stage. The Development Review Board reserves the right, however to require additional supporting information from applicants as would typically be required if the application was being reviewed in accordance with the Subdivision Regulations (e.g., traffic studies, drainage plans).
- 852.2 All PUDs shall be required to obtain a special conceptual approval from the Development Review Board prior to pursuing subdivision approval in accordance with the Milton Subdivision Regulations. PUDs, regardless of their type, shall be granted only when the Development Review Board finds that the project conforms with the purposes of this provision, as identified in Section 850 herein.
- 852.3 All PLANNED UNIT DEVELOPMENTS shall be subject to Site Plan review in accordance with Section 800 of these regulations.
- 852.4 PLANNED UNIT DEVELOPMENTS may contain any combination of permitted and CONDITIONAL USEs, and uses that do not differ substantially from the permitted and CONDITIONAL USEs within the ZONING DISTRICT in which it is located. If the proposed PLANNED UNIT DEVELOPMENT contains CONDITIONAL USEs, CONDITIONAL USE approval will be required by the Development Review Board. PLANNED UNIT DEVELOPMENTS may be within one or more STRUCTURES on a singular lot, except as noted in this section. To allow for consolidated appeals and to expedite the permitting

process site plan and conditional use review may be conducted concurrently with the process for final subdivision approval, as long as the notice, hearing and decision requirements are issued simultaneously.

- 852.5 A PLANNED UNIT DEVELOPMENT may be developed in anticipation of a general range of USES. Individual USES occupying a planned commercial and/or industrial park shall be subject to the receipt of a Zoning Permit for USES occupying an individual unit for the first time. Changes of USE shall be subject to all applicable provisions of these Regulations. CONDITIONAL USES for which approvals are sought after a preliminary subdivision or final subdivision approval has been granted by the Development Review Board shall be subject to CONDITIONAL USE review by the Development Review Board.
- 852.6 The Development Review Board may waive any requirements noted in the "Dimensional Requirements" section of the applicable ZONING DISTRICT and the requirements of Section 640 "Lot Width", if, in its opinion, the proposal clearly fulfills the intentions and requirements of this Section, with the following exceptions:
- 852.6.1 The minimum SHORELINE SETBACK requirements of applicable ZONING DISTRICTS shall not be waived.
  - 852.6.2 OPEN SPACE and BUFFER STRIP requirements shall not be waived.
  - 852.6.3 The maximum allowable number of residential units, as determined by Section 856.1, shall not be waived (unless a bonus density is awarded in accordance with Section 853).
- 852.7 PUDs within existing buildings may be reviewed under Section 801 if they meet the requirements of that section; otherwise PUDs within existing buildings must be reviewed under Section 850.
- 852.8 The Development Review Board may allow greater concentration or density of land USE within some sections of the development than in others, if they determine that it is necessary to enable innovation in design and layout and more efficient USE of land. In granting approval of a greater concentration or density of land USE, the Development Review Board may require that it be offset by a lesser concentration in another section, or sections, of the PLANNED UNIT DEVELOPMENT.
- 852.9 Ownership within a PLANNED UNIT DEVELOPMENT can be conveyed or leased along building lines. In addition, PLANNED UNIT DEVELOPMENTS may be configured as FOOTPRINT LOTS. Such transfers will not violate lot coverage, minimum lot area, frontage or setback requirements. For the purposes of a PLANNED UNIT DEVELOPMENT, lot is defined as a parcel of land dedicated to the entire PLANNED UNIT DEVELOPMENT, and not any subdivision or leasing of land and/or building within the PLANNED UNIT DEVELOPMENT.
- 852.10 Connection to municipal sewer or the development of a community sewage disposal system may be required by the Development Review Board.
- 852.11 Connection to municipal water or the development of a community water supply system may be required by the Development Review Board.
- 852.12 ACCESS – PUDs may be approved with either a PUBLIC ROAD, PRIVATE ROAD, or DRIVEWAY in accordance with Section 590 of these Regulations, and Section 800 when

applicable.

852.13 DRIVEWAYS and accesses to individual lots shall be planned to minimize direct access to Town highways and STREETS. To this extent, the USE of frontage roads for PLANNED UNIT DEVELOPMENTS shall be encouraged by the Development Review Board.

852.14 The Development Review Board may require that a PLANNED UNIT DEVELOPMENT be phased.

852.15 OPEN SPACE Requirements for PLANNED UNIT DEVELOPMENTS-Residential and MIXED USE. The proposal shall provide for the preservation and maintenance of OPEN SPACE which is designed to be an integral part of the whole development. The size, shape and locations of OPEN SPACE shall be approved by the Development Review Board. The OPEN SPACE shall be protected by appropriate legal devices to ensure the continued USE of such lands for the purpose of AGRICULTURE, FORESTRY, recreation or conservation. Such mechanisms include dedication of development rights, conservation easements, homeowners associations, restrictive covenants, conveyance to land trusts, or other appropriate grants or restrictions approved by the Development Review Board. Permitted future USES and maintenance of the OPEN SPACE shall be specifically identified as part of the approval of any PLANNED UNIT DEVELOPMENT-Residential and MIXED USE. An improved or unimproved right-of-way to the OPEN SPACE must be provided so that all residents of the PLANNED UNIT DEVELOPMENT-Residential or MIXED USE have access to the open space.

Minimum OPEN SPACE Requirements:

The following minimum OPEN SPACE requirements shall be met for all PLANNED UNIT DEVELOPMENTS-Residential and MIXED USE:

Zoning District	Percent of Land in Open Space
R1, M1, M2, M3, M5, M6, DB1	20%
R2, M4, R7	25%
R6	35%
R3, R4, R5, FC	50%

(a) For PLANNED UNIT DEVELOPMENTS-Residential and MIXED USE that occur in two ZONING DISTRICTS, the figures noted in the table above shall be used for the purposes of calculating the total OPEN SPACE necessary for the subdivision, which shall be calculated based on these specifications for the portions of land occurring in each district; any portion of the OPEN SPACE or the development site may occur within either ZONING DISTRICT with the approval of the Development Review Board.

The following shall be required for PLANNED UNIT DEVELOPMENTS-Residential and MIXED USE located in the M1, M2, M4, M5, and M6 districts:

(b) A minimum of 50% of the OPEN SPACE shall be considered community recreation space, where the intent is to encourage the creation of places for recreation and civic activities that foster neighborliness and the space shall be contiguous. This space shall not consist of BUFFER STRIPS, parking lots, areas between buildings, or undevelopable land as listed in Section 856.1(b). This area

shall be maintained by the development, unless accepted by the town as public property. Appropriate legal devices to ensure the continued USE of such lands for continued neighborhood use shall protect it. The DRB shall approve the location and use of this community recreation space.

**SECTION 853 Bonus Density**

- 853.1 The Development Review Board, at its discretion, may provide for bonus densities not to exceed 25% more units than can be provided in Sections 856.1(c)[1], 856.1(c)[2], 856.1(c)[3], and 856.1(c)[4]. The number of bonus units to be granted shall be rounded up to the nearest whole number. For commercial or industrial uses the Development Review Board, at its discretion, may waive the lot coverage or provide a greater percentage lot coverage than can be provided based on the underlying zoning district.
- 853.2 The granting of bonus density shall not be guaranteed, but shall be limited to certain proposals that the Development Review Board finds would facilitate the goals of the *Comprehensive Plan of the Town of Milton*. The Development Review Board shall consider impacts on the capacities of community facilities and services and the character of the area affected in making its determination regarding the granting of a bonus density; such determination must be made in the form of a finding by resolution during the sketch plan review (also known as conceptual review) of a PLANNED UNIT DEVELOPMENT, and subject to conditions to be affixed to the final plat approval for the subdivision. In addition, the finding must include an evaluation of the following:
- (1) Preservation of Agricultural USE - A bonus not greater than twenty-five percent (25%), as limited in Section 853.1 herein, may be awarded to a PLANNED UNIT DEVELOPMENT that results in the preservation of an active farm or agricultural USE.
    - [a] The project must be designed in order to diminish its visual impact from outside the site and to allow an active agricultural USE to continue.
    - [b] PLANNED UNIT DEVELOPMENTS eligible for consideration for this bonus density must incorporate the following factors:
      - [1] The proposed project must not include development in the middle of open fields; BUILDABLE ENVELOPES shall be located on the edges of fields and within wooded areas; and
      - [2] The proposed project must utilize existing stands of trees in order to screen the project from existing roadways where applicable; and
      - [3] The proposed project must be designed in such a manner that agricultural USES may be continued after the development of the project. Appropriate legal restrictions applied to deed of the OPEN SPACE must be provided, as well as provisions for the perpetual maintenance of the agricultural area.
  - (2) Provision of Public Access or Dedication - A bonus not greater than twenty five percent (25%) bonus, as limited in Section 853.1 herein, may be granted toward proposals that will result in the following:
    - [a] The proposal provides for the dedication of the OPEN SPACE of the project or future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements to the Town; in granting the bonus density a legally binding agreement between the developer and the Town must be made

- contingent upon the finalization of the subdivision in the form of an offer of dedication. Such offers, in draft form, must be submitted with the preliminary application. Such offers of dedication must include provisions for improvements to the site made by the developer which will enhance public USE of the property if in the opinion of the Development Review Board the nature of the dedication would warrant such improvements; such improvements include but are not limited to the following: parking areas, playgrounds, and nature trails; or
- [b] The applicant must provide public access easements and infrastructure necessary to facilitate public enjoyment of the OPEN SPACE for the project if such OPEN SPACE is to remain in private ownership; such improvements include but not limited to the following: parking areas, playgrounds, and nature trails; or
  - [c] The proposal must include the conveyance of land or a conservation easement over the OPEN SPACE of the project to a land trust or the State for the perpetual preservation and care of the land; such conveyance must provide provisions that will guarantee no further residential, commercial, or industrial development on the land.
  - [d] These bonuses shall be available to the subject property for up to five (5) years from the date of the Development Review Board approval.

**Section 854 PUD-Industrial and PUD-Commercial**

- 854.1 PLANNED UNIT DEVELOPMENTS- Industrial and Commercial shall select appropriate BUILDABLE ENVELOPES and building HEIGHTS which will minimize the visual impact of proposed developments from existing STREETS and adjacent residential developments, and where applicable, retain rural community characteristics. The use of landscaping is a key element of the design of PLANNED UNIT DEVELOPMENTS-Industrial and Commercial, and shall assist with preserving and enhancing site aesthetics, buffering developments from adjacent residential developments, and for noise and lighting attenuation. In all cases, PLANNED UNIT DEVELOPMENTS-Industrial and Commercial shall result in the creation of BUILDABLE ENVELOPES which are situated in the best possible location after an evaluation of the unique characteristics and natural features of the site in which it is to be located.
- 854.2 The PLANNED UNIT DEVELOPMENT-Industrial and Commercial shall provide for the preservation of OPEN SPACE which is designed to be an integral part of the development. The size, shape and locations of OPEN SPACE shall be approved by the Development Review Board. Landscaped areas required for parking areas in accordance with Section 814.6 "Landscaping for Parking Lots" shall not be included in the calculation for required OPEN SPACE.
- 854.3 The OPEN SPACE shall be protected by appropriate legal devices to ensure the continued USE of such lands for the purpose of AGRICULTURE, FORESTRY, recreation or conservation. Such mechanisms include dedication of development rights, conservation easements, property owners' associations, restrictive covenants, conveyance to land trusts, or other appropriate grants or restrictions approved by the Development Review Board. Permitted future USES of the OPEN SPACE shall be specifically identified as part of the final approval decision of any PLANNED UNIT DEVELOPMENT-Industrial and Commercial.

- 854.4 A BUFFER STRIP shall be maintained along the lot line(s) of all PLANNED UNIT DEVELOPMENTS-Industrial where they abut residential properties. The Development Review Board, at its discretion, may require an increase in the size of the BUFFER STRIP. The required BUFFER STRIP shall be kept free of buildings or STRUCTURES and the Development Review Board shall require that this area be landscaped, screened or protected by natural features such that buffering exists during all seasons of the year. The BUFFER STRIP may be included in the calculation for required OPEN SPACE.

Zoning District	Required BUFFER STRIP
I1	15 feet
I2	25 feet
I3	100 feet

- 854.5 The granting of waivers shall result in a design, which is sensitive to the preservation of natural features identified in this Section.
- 854.6 BUILDABLE ENVELOPES in the Industrial Zoning Districts shall be designed in order to minimize visual impacts associated with the development. To the greatest extent practicable, BUILDABLE ENVELOPES shall be situated on the edges of fields, within wooded areas, and away from tops of ridgelines.

#### **SECTION 855 PUD-MIXED USE**

In addition, to the purposes stated in Section 850, the purpose of PLANNED UNIT DEVELOPMENTS-MIXED USE is to promote a mix of residential uses and nonresidential uses, and to provide for compact, pedestrian-oriented MIXED USE development.

- 855.1 PLANNED UNIT DEVELOPMENTS-MIXED USE in MIXED USE Zoning Districts may incorporate a mix of all permitted or CONDITIONAL USES as defined in Articles III and IV.
- 855.2 The density analysis established in Section 856.1 shall be used to determine the allowable number of residential units within a PLANNED UNIT DEVELOPMENT-MIXED USE.
- 855.3 PLANNED UNIT DEVELOPMENTS-MIXED USE in the MIXED USE Zoning Districts shall select appropriate BUILDABLE ENVELOPES and building HEIGHTS, which will enhance the downtown as outlined in Sections 804 and 805 of these regulations.
- 855.4 The use of landscaping is a key element of the design of PLANNED UNIT DEVELOPMENTS-MIXED USE, and shall assist with preserving and enhancing site aesthetics, and for noise and lighting attenuation. In all cases, PLANNED UNIT DEVELOPMENTS-MIXED USE shall result in the creation of BUILDABLE ENVELOPES which are situated in the best possible location after an evaluation of the unique characteristics and natural features of the site in which it is to be located.
- 855.5 PLANNED UNIT DEVELOPMENTS-MIXED USE shall provide for the preservation of OPEN SPACE, which is designed to be an integral part of the development. This may take the form of more urban OPEN SPACES such as outdoor public parks, indoor public atriums, enhanced streetscape incorporating outdoor seating areas. The size, shape and locations of OPEN SPACE shall be approved by the Development Review Board. See also Section 852.15.



**SECTION 856 PUD-Residential**

In addition, to the purposes stated in Section 850, the purpose of PLANNED UNIT DEVELOPMENTS-Residential is to promote compact, pedestrian-oriented residential developments; and to encourage any development in the countryside to be compatible with the use and character of surrounding rural lands. In all cases, PLANNED RESIDENTIAL DEVELOPMENTS result in the creation of BUILDABLE ENVELOPES that are situated in the best possible location after an evaluation of the unique characteristics and natural features of the site in which it is to be located.

For PLANNED UNIT DEVELOPMENTS-Residential that occur outside of the Town's core, in areas zoned Agricultural/Rural Residential, Shoreland Residential and *Forestry/Conservation/Scenic Ridgeline*, a key goal for PLANNED UNIT DEVELOPMENTS-Residential shall be to retain rural community characteristics through the selection of appropriate BUILDABLE ENVELOPES that will minimize the visual impact of proposed developments from existing roadways. Included within the realm of rural community character is the preservation of existing farms and prime agricultural soils.

In addition, major PLANNED Unit DEVELOPMENTS-Residential are intended to provide for more intensive development. Major PLANNED UNIT DEVELOPMENTS-Residential must contain at least seven DWELLING UNITS. Major PLANNED UNIT DEVELOPMENTS-Residential are intended to result in subdivision designs that complement site specific characteristics, while providing for a more efficient USE of public services. OPEN SPACE is another key element to this type of subdivision, and provisions must be made in order to provide for access to the OPEN SPACE by all residents of the development. Bonus densities may be provided as incentives for planning that will facilitate the goals of this Section and of the *Comprehensive Plan of the Town of Milton*.

In addition, minor PLANNED UNIT DEVELOPMENTS-Residential are intended to result in site planning that will enable the developer and the Development Review Board to identify suitable BUILDABLE ENVELOPES for STRUCTURES that more closely conform with site characteristics. Of particular concern for these subdivisions is the preservation of rural characteristics in the Town's rural development area, and the retention of community character in all ZONING DISTRICTS. Minor PLANNED UNIT DEVELOPMENTS-Residential may be approved only if such development will result in diminished visual impacts from a Town highway when compared with a conventional subdivision layout. Therefore, it is the intention of this type of subdivision to enable the Development Review Board to make waivers from conventional zoning criteria, where such waivers will result in a development that will facilitate the goals of the *Comprehensive Plan of the Town of Milton*.

**856.1 Density Analysis/Allowable Number of Units**

This density analysis shall be deemed to be the maximum number of units that could be sustained within the PLANNED UNIT DEVELOPMENT - Residential. The Development Review Board, at its discretion, may require that the number of units permitted be less than the maximum number if it finds that fewer units than the maximum will be necessary to fulfill the purposes of such developments, as indicated in Section 850, Section 855 and the *Comprehensive Plan of the Town of Milton*, or if the Development Review Board finds that development constraints on the land prevent the number of units generated through the density analysis. The Development Review Board may grant a bonus density above the maximum number of units deemed by the density analysis in accordance with Section 853.

Density Analysis - The number of residential units permitted within PLANNED UNIT DEVELOPMENTS - Residential shall be computed in the following manner:

- (a) The area of the entire tract of land affected by the PLANNED UNIT DEVELOPMENTS- Residential shall be calculated in square feet.
- (b) The area in square feet of undevelopable land shall be calculated by a certified engineer. Such lands are those that contain the following characteristics: those lands that are clearly undevelopable due to environmental limitations, such as but not limited to designated WETLANDS and wetland buffers as defined in the Vermont Wetland Rules, slopes in excess of 15%, navigable streams, rock formations, UNDEVELOPABLE SOILS, easements or rights-of-way that restrict development, and flood and earth movement hazard areas.
- (c) The maximum number of permitted DWELLING UNITS shall be calculated in the following manner:
  - [1] The area in square feet of undevelopable land, as identified in 856.1(b) above shall be subtracted from the total square footage of the tract affected by the proposed PLANNED UNIT DEVELOPMENT - Residential, as identified in 856.1(a) above; and
  - [2] For PLANNED UNIT DEVELOPMENTS - Residential the difference established in 856.1(c)[1] above shall be multiplied by ten percent (10%), in order to account for the area of land necessary for roads, sidewalks or other infrastructure;
  - [3] For PLANNED UNIT DEVELOPMENTS - Residential the sum identified in 856.1(c)[2] above shall be subtracted from the area identified in 856.1(c)[1] above;
  - [4] For PLANNED UNIT DEVELOPMENTS – Residential:
    - [a] For SINGLE FAMILY DWELLINGS and DUPLEXES the sum identified in 856.1 (c)[3] above shall be divided by the minimum LOT AREA in the ZONING DISTRICT in which the PLANNED UNIT DEVELOPMENT - Residential is located. This figure, rounded up to the nearest whole number, shall reflect the maximum number of DWELLING UNITS permitted within the PLANNED UNIT DEVELOPMENT – Residential;
    - [b] For MULTIFAMILY DWELLINGS the sum identified in 856.1 (c)[3] above shall be divided by 40,000 sq.ft. and then multiplied by the maximum DENSITY if maximum DENSITY is established in the ZONING DISTRICT in which the PLANNED UNIT DEVELOPMENT - Residential is located. If no maximum DENSITY is established in the ZONING DISTRICT in which the PLANNED UNIT DEVELOPMENT - Residential is located, the sum identified in 856.1 (c)[3] above shall be divided by the minimum LOT AREA. This figure, rounded up to the nearest whole number, shall reflect the maximum number of DWELLING UNITS permitted within the PLANNED UNIT DEVELOPMENT – Residential.
  - [5] In the case of a PLANNED UNIT DEVELOPMENT - Residential that occurs within two ZONING DISTRICTS, the procedure outlined in 856.1(c)[1], 856.1(c)[2], 856.1(c)[3], and 856.1(c)[4] above shall be conducted separately for the portions of land that occur within each ZONING DISTRICT. The total density shall be the sum of the density analysis for the portion of land occurring within each ZONING DISTRICT, rounded up to the nearest whole number.

**856.2 Design and Preservation:**

The proposal shall present an effective and unified treatment of the development possibilities on the project site, and the proposed development plan shall make appropriate provision for the preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural and man-made features. No BUILDABLE ENVELOPES shall occur in areas deemed undevelopable as defined in 856.1(b) above. The proposal shall integrate OPEN SPACE and developed areas to create a balance between natural and man-made environments. See also Section 852.15. The proposal shall be compatible with existing and future patterns of development in the area.

**856.3 Other Requirements:**

- (a) Buffer - A BUFFER STRIP shall be maintained around the perimeter of all major PLANNED UNIT DEVELOPMENTS-Residential, except along the front property lines of lots with FRONTAGE on a public or private STREET or right-of-way. The width of the BUFFER STRIP shall be at least twice the required SIDE SETBACK for the district in which the major PLANNED UNIT DEVELOPMENT-Residential is located. The required BUFFER STRIP shall be kept free of buildings or STRUCTURES and the Development Review Board may require that it be landscaped, screened or protected by natural features.
- (b) Future Subdivision - No land included within a PLANNED UNIT DEVELOPMENT-Residential may be included in any future subdivision of land. Covenants and deed restrictions to this effect shall be provided.
- (c) USES Permitted - Only those USES specifically listed as permitted USES in the ZONING DISTRICT in which a PLANNED UNIT DEVELOPMENT-Residential is located shall be permitted, except where indicated in this Ordinance.
- (d) BUILDABLE ENVELOPES - All DWELLING UNITS must occur within BUILDABLE ENVELOPES. BUILDABLE ENVELOPES must be identified in all plans submitted, and on the final plat mylar that is filed with the Town Clerk.

**SECTION 860 EXTRACTION OF NATURAL RESOURCES**

The removal of sod, soil, sand, gravel or stone for commercial purposes shall be prohibited except by approval of the Development Review Board. Before the approval is granted the applicant must:

- 860.1 Submit an acceptable plan showing the location and magnitude of the proposed operation, the location and composition of access roads, the existing grades and contours in the area from which the material is to be taken and finished grades at the conclusion of the operation.
- 860.2 Submit an acceptable plan which provides for adequate fencing of excavation areas, landscape buffer zones, and measures to control dust, noise or other effects which may be harmful to the surrounding area.
- 860.3 Submit an acceptable plan with measures to protect soil fertility, drainage and lateral support of abutting land; and provisions to cover the finished grades with at least four inches of topsoil and seed with a suitable crop cover.
- 860.4 Post surety with the Town of Milton sufficient to guarantee conformity with the approved plans. The amount of the surety shall be determined by the Development Review Board.

**SECTION 861 Limitations**

No removal of soil, sod, loam, sand, gravel or stone shall be permitted:

- 861.1 Within any Flood hazard or *Forestry/Conservation/Scenic Ridgeline* District (unless expressly permitted in Appendix A of the Milton Zoning Regulations: *Inundation Hazard Area Regulations*).
- 861.2 Within seventy-five (75) feet of any property line.
- 861.3 Within fifty (50) feet of the mean high water level of any stream, river or lake.
- 861.4 Within any SETBACK or buffer zone required by these Regulations.

**SECTION 862 Exceptions**

This Section shall not apply to normal agricultural or FORESTRY operations, road construction by a public agency, or the operation of a cemetery, to the extent reasonably necessary for such purposes.

**SECTION 870 AGRICULTURE**

AGRICULTURE is the preferred USE in the Low Density Residential (R3), Transitional Residential (R4), and Agricultural/Rural Residential (R5) Districts. All agricultural operations in these districts shall be permitted at any time as long as they comply with all the requirements of this Ordinance and all applicable State laws. No agricultural USE in these districts shall be subject to restrictions because it creates a nuisance or because it interferes with the other USES permitted in the districts.

**SECTION 871 Agricultural Roadside Stands**

Roadside stands for the sale of agricultural products shall be permitted in all zoning districts in accordance with the following requirements:

- 871.1 They shall meet the front setback requirements of the zoning district.
- 871.2 They shall be used principally for the sale of agricultural products produced on local farms.
- 871.3 Parking spaces shall be provided outside of the road right-of-way.
- 871.4 SIGNS shall conform to the provisions set forth in Section 830.

**SECTION 872 Accessory Dwelling**

In the case of an operating farm, an ACCESSORY dwelling may be permitted provided that the farmhouse and ACCESSORY dwellings are used for full-time laborers or for tenants who operate the farm on a full-time basis.

Such ACCESSORY dwellings shall be required to meet the dimensional requirements of the district in which they are located as though they were a PRINCIPAL STRUCTURE. Such ACCESSORY dwellings may be, but are not limited to, a detached SINGLE FAMILY DWELLING, ATTACHED to the principal dwelling to create a DUPLEX, or an apartment in the principal dwelling.

**SECTION 880 ACCESSORY APARTMENTS**

Accessory apartments shall be allowed as permitted uses in detached, single family dwellings wherever detached, single family dwellings are allowed or exist subject to the following criteria:

1. The detached, single family dwelling shall be owner-occupied.
2. The accessory apartment shall not contain more than one bedroom.
3. The HABITABLE FLOOR AREA of the accessory apartment shall not exceed 40 (forty) percent of the HABITABLE FLOOR AREA of the detached, single family home as it existed at the time of creation of the accessory apartment.
4. The accessory apartment shall have an adequate potable water supply, an adequate wastewater disposal system, and adequate facilities for living, cooking, dining, sleeping, and bathing.
5. The accessory apartment shall be constructed in accordance with the applicable setback, coverage, and parking requirements of its zoning district.
6. The accessory apartment shall be clearly accessory and subordinate to the detached, single-family dwelling.
7. The Zoning Administrator/Acting Zoning Administrator shall be responsible for verifying that all of the above conditions have been met.

### **SECTION 881 ELDERLY HOUSING COMPLEX**

#### **881.1 Purpose**

- A. The need for elderly housing has grown substantially since the 1990's. In recognition of this need and in furtherance of the public interest and general welfare of the Town of Milton, these regulations have been established to encourage the construction of dwelling units suitable for occupancy by elderly persons 55 years old and older. An elderly housing complex may be constructed so as to provide for assisted living and continuing care components for the elderly. Where the regulations of this section differ from other sections of the zoning, subdivision, and site plan regulations, the provisions of this section shall take precedence. An elderly housing complex shall also comply with the provisions of the Fair Housing Act, as amended, 42 U.S.C. Sec. 3601 et seq. Applicable elderly housing regulations, as amended, of the U.S. Department of Housing and Urban Development shall also be complied with.
- B. The purpose of an elderly housing complex shall be to provide safe, affordable, comfortable, and efficient housing for elderly residents in an easily accessible, centrally located, pedestrian friendly environment in proximity to necessary support services such as food stores, pharmacies, medical facilities, public transportation, voting places, post offices, libraries, senior centers, and places of worship.

#### **881.2 Definitions**

- A. Elderly Housing Complex – a development of one or more dwelling units in detached or multi-unit buildings on the same lot under common ownership that is dedicated as a housing complex for elderly persons and includes legal covenants or restrictions designed to ensure the occupancy of such buildings principally by persons 55 years of age or older or disabled persons of any age. All buildings, dwelling units and sites shall comply with all applicable state and federal handicapped accessibility requirements. Handicapped individuals of any age shall be eligible to live in an elderly housing complex.
- B. Elderly Person – a person at least 55 years old or older at the time of initial occupancy.
- C. Handicapped Person – a person of any age who has:
  1. a physical or mental impairment which substantially limits one or more of such person's major life activities,

- 2. a record of having such an impairment, or
- 3. been regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C. Section 802.
- D. Senior Center – a community facility intended to service the needs and activities of elderly persons.

**881.3 Standards**

- 1. Each Elderly Housing Complex shall comply with the following standards:

**A. DENSITY**

**1. MINIMUM BUILDABLE LOT SIZE PER ELDERLY HOUSING COMPLEX**

<b>TOWN WATER &amp; SEWER</b>	<b>TOWN WATER OR SEWER</b>	<b>ON-SITE WATER &amp; SEWER</b>
20,000 SQUARE FEET	30,000 SQUARE FEET	40,000 SQUARE FEET

All buildings in an Elderly Housing Complex shall be located on the same lot. The lot shall be under common ownership.

**2. MINIMUM BUILDABLE LAND AREA PER DWELLING UNIT**

<b>TOWN WATER &amp; SEWER</b>	<b>TOWN WATER OR SEWER</b>	<b>ON-SITE WATER &amp; SEWER</b>
2,500 S.F./EFFICIENCY UNIT	5,000 S.F./EFFICIENCY UNIT	8,000 S.F./EFFICIENCY UNIT
2,500 S.F./1-BEDROOM UNIT	5,000 S.F./1-BEDROOM UNIT	8,000 S.F./1-BEDROOM UNIT
3,000 S.F./2-BEDROOM UNIT	6,000 S.F./2-BEDROOM UNIT	9,000 S.F./2-BEDROOM UNIT

**3. MINIMUM & MAXIMUM GROSS FLOOR AREA PER DWELLING UNIT**

<b>DWELLING UNIT TYPE</b>	<b>MINIMUM GROSS AREA</b>	<b>MAXIMUM GROSS AREA</b>
EFFICIENCY UNIT	400 GROSS SQUARE FEET	800 GROSS SQUARE FEET
1-BEDROOM UNIT	450 GROSS SQUARE FEET	1,000 GROSS SQUARE FEET
2-BEDROOM UNIT	600 GROSS SQUARE FEET	1,200 GROSS SQUARE FEET

All Elderly Housing Complexes and dwelling units shall comply with federal and state handicapped accessibility requirements.

**4. OCCUPANCY LIMITS**

**DWELLING UNIT TYPE**

EFFICIENCY UNIT:	NO MORE THAN 1 (ONE) OCCUPANT
1-BEDROOM UNIT:	NO MORE THAN 2 (TWO) OCCUPANTS
2-BEDROOM UNIT:	NO MORE THAN 2 (TWO) OCCUPANTS

**B. PARKING REQUIREMENTS**

**1. RESIDENT PARKING REQUIREMENTS:**

- i. 1 parking space per unit

**2. VISITOR PARKING REQUIREMENTS:**

- i. 1 parking space per every 4 dwelling units of any type

**3. LOCATION**

- i All parking spaces shall be located on site in places that provide convenient access to the dwelling units.

**C. SITE PLAN REVIEW**

1. Elderly Housing Complexes shall be reviewed under the Site Plan Review regulations of this ordinance with particular attention being given to adequate lighting, sufficient sidewalks, and safe ingress/egress for vehicular traffic.
2. A canopied drop-off area may be permitted within the required setback area or front yard of the complex for the convenience of the elderly residents.
3. The architectural design and arrangement of buildings shall be residential in character and consistent with the appearance of the community in general and the neighborhood in particular.
4. The perimeter of each Elderly Housing Complex shall be reserved as a 20-foot wide landscape buffer zone with new plantings or existing natural vegetation.
5. The Development Review Board may require that all roads within the Complex be built in accordance with the "Public Works Road Specification Standards."

**D. SETBACK & HEGHT REQUIREMENTS**

1. All buildings within an Elderly Housing Complex shall be located at a minimum distance of 20 feet from all property lines and other buildings on the same lot.
2. All buildings within an Elderly Housing Complex shall comply with the HEIGHT requirements of the zoning district in which they are located.

**E. OPEN SPACE REQUIREMENTS**

The following OPEN SPACE requirements shall be met for an Elderly Housing Complex with ten (10) or more units within the following Zoning Districts.

Zoning District	Percent of Land in OPEN SPACE
R1, M1, M2, M3, M5, M6, DB1	20%
R2, M4, R7	25%
R6	35%
R3, R4, R5, FC	50%

1. For an Elderly Housing Complex that occurs in two ZONING DISTRICTS, the figures noted in the table above shall be used for the purposes of calculating the total OPEN SPACE necessary for the subdivision, which shall be calculated based on

these specifications for the portions of land occurring in each district; any portion of the OPEN SPACE or the development site may occur within either ZONING DISTRICT with the approval of the Development Review Board.

2. The following shall be required for an Elderly Housing Complex located in the M1, M2, M4, M5, and M6 districts:
  - i. A minimum of 50 percent of the OPEN SPACE shall be considered community recreation space, where the intent is to encourage the creation of places for recreation and civic activities that foster neighborliness and the space shall be contiguous. This space shall not consist of BUFFER STRIPS, parking lots, areas between buildings, or undevelopable land as listed in Section 856.1(b). This area shall be maintained by the development, unless accepted by the town as public property. Appropriate legal devices to ensure the continued USE of such lands for continued neighborhood use shall protect it. The DRB shall approve the location and use of this community recreation space.

#### **E. LEGAL DOCUMENTATION**

##### **1. HOMEOWNERS' ASSOCIATION**

- a. The developer of each Elderly Housing Complex shall be responsible for establishing a homeowners' association and bylaws under applicable state law. The document shall give special attention to the unique needs of elderly people and shall ensure that the elderly residents of the complex will receive adequate and appropriate services. The document shall be submitted during site plan review to the Development Review Board and the Town Attorney for their review and approval. The developer shall bear the sole expense of creating the document and for its review by the Town Attorney. The Homeowners' Association document shall at all times comply with relevant local, state, and federal regulations.

##### **2. FEDERAL COMPLIANCE**

- a. **As part of the site plan review process**, the developer of each Elderly Housing Complex shall be responsible for filing a report with the Development Review Board describing how the project complies with the provisions of all applicable federal regulations that affect the project.

#### **SECTION 890 RECYCLING YARDS**

This Section shall pertain to any RECYCLING YARD that is **not** registered with the Town of Milton and the State of Vermont that was in existence on January 1, 1994, for a period of twelve (12) months or longer. Such RECYCLING YARDS may apply within twelve (12) months of the effective date of this Ordinance for a CONDITIONAL USE from the Development Review Board; if the CONDITIONAL USE is granted, that RECYCLING YARD shall be considered to comply with local Zoning Regulations and shall be eligible to apply for a "Certificate of Approval for Location of a Junkyard" from the Select Board and other subsequent procedures, including Site Plan approval.



Any RECYCLING YARD created after January 1, 1993, and prior to the effective date of this amendment shall not be eligible for a CONDITIONAL USE by the Development Review Board, and its operation must cease. A RECYCLING YARD commencing operations after the effective date of this amendment shall be located within a ZONING DISTRICT permitting the USE and shall require CONDITIONAL USE approval and Site Plan approval by the Town in accordance with Sections 500 and 800 through 830, as well as an approved "Certificate of Approval for Location of a Junkyard" from the Select Board.

Notwithstanding the above, RECYCLING YARDS which have been granted a CONDITIONAL USE approval for a RECYCLING YARD or have been issued a "Certificate of Compliance" pertaining to a junkyard from the Development Review Board prior to the effective date of this amendment are exempt from the provisions of this Section, and are eligible to apply for a "Certificate of Approval for Location of a Junkyard" from the Select Board. Non-conforming, licensed RECYCLING YARDS shall still be subject to the provisions of Sections 510 through 514, "Non-conforming Uses". Changes in ownership of licensed RECYCLING YARDS shall still be subject to obtaining a "Certificate of Approval for Location of a Junkyard" for the new owner from the Select Board.

#### **SECTION 891 Required Findings for Conditional Use**

In addition to those findings required under Section 500 of the Zoning Regulations, the Development Review Board must find in the affirmative that the subject RECYCLING YARD complies with the following standards and criteria:

- (1) The application must qualify as a RECYCLING YARD as defined in Article X of this Ordinance.
- (2) The RECYCLING YARD must be found to have been created prior to January 1, 1994, and must further be found to have been in existence for a period of twelve (12) months or longer, as determined by evidence provided by the applicant; such as, but not limited to, purchase and sales tax receipts or other income tax documentation, dated videotapes, dated photographs.
- (3) The RECYCLING YARD must be found not to contribute to water or air pollution, to the extent that it presents a hazard to public health and safety, as determined by a Level I Site Assessment and site inspection by a certified engineer who is qualified to conduct hazardous waste surveys. A Level II Site Assessment will be required if recommended by the Level I Site Assessment submitted as part of Section 892(4) and the results of the site inspection.
- (4) The RECYCLING YARD will not adversely affect the scenic character or quality of the area in the immediate vicinity, as viewed from any PUBLIC ROAD, highway, PRIVATE RIGHT-OF-WAY or adjacent property, nor will it adversely affect the health or safety of the community.

#### **SECTION 892 Application Submission Requirements for Conditional Use**

The following information is required to be submitted by the applicant in order to assist the Development Review Board in making its findings that the USE satisfies the criteria indicated in Section 891:

- (1) Number of vehicle trips per day based on peak seasons;
- (2) A survey of the lot by a licensed land surveyor containing the RECYCLING YARD, with detailed information showing:
  - (a) lot dimensions and acreage,
  - (b) all STRUCTURES and storage areas,
  - (c) SETBACKS and LOT COVERAGE of all STRUCTURES and storage areas,

- including BUILDABLE ENVELOPE,
  - (d) existing and proposed landscaping and fencing,
  - (e) DRIVEWAYS and traffic circulation,
  - (f) parking and loading spaces,
  - (g) names of owners of record of adjacent properties,
  - (h) location of water and wastewater,
  - (i) location of "control area" for waste disposal (such as, but not limited to, disposal of radiators, batteries, petroleum), and location and construction specifications of existing and proposed waste storage containers;
- (3) Information from a certified engineer indicating the capacity of the existing wastewater system, and its capability to handle the present and/or future USE of the RECYCLING YARD;
- (4) A copy of the Level I and/or Level II Site Assessment as required in Section 891(3), as prepared by the Town's consulting engineer, retained by the Town and paid for by the applicant. The applicant shall establish an escrow account of a minimum of \$2,500.00 prior to the engineer commencing the Level I Site Assessment and site inspection. In the event that the Level I Site Assessment and site inspection amount to less than \$2,500.00, the applicant shall be reimbursed the amount remaining in escrow. In the event that the applicant does not wish to use the services of the Town's consulting engineer, the Town and applicant shall mutually agree to using a different consulting engineer. In this case, the applicant shall pay the engineer directly. The applicant shall forward copies of the Site Assessment(s) to the State Health Department, Agency of Natural Resources--Environmental Conservation Department, Regional District Environmental Board Office, Agency of Transportation--Department of Motor Vehicles, and Emergency Management--Hazardous Materials Division, only in the event that the Site Assessment(s) identified groundwater contamination; and
- (5) Photographs and/or videotapes of the currently existing RECYCLING YARD operation.

### **SECTION 893 Other Application Requirements**

In addition to all required procedures for CONDITIONAL USE review, the applicant shall send the official legal warning for the CONDITIONAL USE review via certified mail, return receipt requested, to the owner of each lot that is within a three hundred (300) foot radius of the boundary of the lot containing the RECYCLING YARD; this mailing must occur not less than fifteen (15) days prior to the public hearing.

The applicant shall provide a list of all property owners within the required radius to the Zoning Administrator who shall ensure satisfactory compliance with this Section prior to the mailing of the certified letters. Prior to the public hearing for the CONDITIONAL USE approval, the applicant shall provide the acting Chair of the Development Review Board with all certified mailing receipts and any returned envelopes. The Zoning Board shall check to ensure that all property owners have either received a copy of the meeting warning via certified mail, or have attempted to have been reached by certified mail.

### **SECTION 894 Requirements for All Recycling Yards Granted Conditional Use Approval by the Development Review Board**

In addition to the conditions and safeguards attached to the granting of the CONDITIONAL USE by the Development Review Board as indicated in Section 501 of the Zoning Regulations, any RECYCLING YARD qualifying under Sections 890 through 895 that is granted CONDITIONAL USE approval by the Development Review Board shall be subject to the following conditions which may

not be waived:

- (1) The RECYCLING YARD shall not be expanded in terms of square feet of operable space, number of vehicle trips generated or volume of service, unless otherwise specified in the approval of the Development Review Board as to maximum permissible EXPANSION.
- (2) RECYCLING YARDS shall be screened from view from any PUBLIC ROAD, PRIVATE RIGHT-OF-WAY and adjacent property during all seasons of the year. Screening may be in the form of a natural barrier (such as, vegetation or topography), or an artificial barrier (such as, an earthen berm, fence, or other method approved by the Development Review Board). The Development Review Board may recommend a combination of both.

Screening shall be a minimum ten (10) feet in height and of a material satisfactory to the Development Review Board in order to screen all of the JUNK contained within the RECYCLING YARD from view. The Development Review Board may require the RECYCLING YARD be entirely ENCLOSED by fencing if, in its opinion, the existing or proposed screening does not shield the RECYCLING YARD from view. All existing vegetation outside and proximate to a fence or other artificial barrier shall be retained to aid in maintaining a natural appearance. If no natural vegetation is present, or is inadequate to buffer the artificial barrier, the Development Review Board may require the planting of vegetation in order to achieve a natural appearance of the barrier.

A performance bond or other form of security shall be required to guarantee the completion of the screening in accordance with Section 806.3, during the Site Plan process.

- (3) The crushing of automobiles shall be done only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.
- (4) No open fire for the burning of rubbish, trash, automobile parts, or other waste matter shall be permitted at any time without the prior written approval of the Chief of the Town of Milton Fire Department.
- (5) Noise in excess of ninety (90) decibels shall be prohibited during the hours of operation of the RECYCLING YARD.
- (6) The applicant shall be required to obtain a "Certificate of Approval for Location of a Junkyard" from the Select Board in accordance with Section 895, and Site Plan approval from the Development Review Board in accordance with Sections 800 through 830, upon CONDITIONAL USE approval by the Development Review Board.

#### **SECTION 895 Licensing Requirements**

RECYCLING YARDS granted CONDITIONAL USE approval from the Development Review Board in accordance with Sections 890 through 894 shall obtain a "Certificate of Approval for Location of a Junkyard" from the Select Board. RECYCLING YARDS are also required to renew their "Certificate of Approval for Location of a Junkyard" with the Select Board within the timeframe indicated in the "Certificate of Approval for Location of a Junkyard". In the event that the applicant does not renew the "Certificate of Approval for Location of a Junkyard" within the specified timeframe, the applicant shall be required to obtain CONDITIONAL USE approval from the Development Review Board in accordance with Sections 890 through 894, prior to the reissuance of the "Certificate of Approval for Location of a Junkyard" by the Select Board.

#### **SECTION 896 Violation and Penalties**

Nothing in Sections 890 through 895 shall be deemed to exclude any applicant from all requirements of subsequent or previous articles of the Milton Zoning Regulations. Any PERSON violating Sections

890 through 895 shall be subject to fines and penalties as provided in Section 950 of the Zoning Regulations. Any PERSON violating any of the provisions of the Zoning Regulations shall become liable to the Town for any expense, loss or damage occasioned in Town by reason of such violation.

Any fines imposed under Sections 890 through 895 above may be recovered in a civil action brought to enforce the terms of the Zoning Regulations, which may also include an application for injunctive relief and the recovery of all costs and legal fees incurred by the Town in any such enforcement proceeding.

**ARTICLE IX  
ADMINISTRATION AND ENFORCEMENT**

**SECTION 900 ZONING PERMITS**

No LAND DEVELOPMENT, excavation or construction shall be started on any land or building; and no EXPANSION, ALTERATION or change of USE shall be started within any existing STRUCTURE without a Zoning Permit issued by the Zoning Administrator.

No Zoning Permit is required for the following (with the exception of development in the Special Flood Hazard Area which is regulated in Appendix A):

- (1) Routine maintenance and repairs, and structural ALTERATIONS to an existing STRUCTURE which will not result in a change or EXPANSION of USE.
- (2) Construction or placement of one residential accessory structure with an area of not more than 100 square feet and a HEIGHT of not more than 10 feet, which is not on a permanent foundation, and which complies with the provisions of Section 580, provided there are no other exempt accessory structures on the property already.
- (3) Fences.
- (4) Roof mounted solar panels not to extend beyond the roof; and roof mounted wind turbines not to exceed the maximum HEIGHT as defined in Articles III and IV.

**SECTION 901 Application of Zoning Permit**

All applications for Zoning Permits shall be made in writing on forms supplied by the Town and shall be accompanied by the following information if applicable:

- 901.1 A map showing the actual shape, property lines and dimensions of the land on which the development is planned.
- 901.2 The shape, size and location of all building or other STRUCTURES either existing or proposed on the property.
- 901.3 The existing and intended USES and areas of USE of the land and all buildings.
- 901.4 The depth of all SETBACK areas and such other features of information concerning the parcel as may be essential for determining whether the plans comply with the provisions of this Ordinance.
- 901.5 All other municipal permits and approvals required for the proposed development, including but not limited to: Road Agreement and Waiver, Site Plan approval, Driveway Permit, *Development Review Board* approval, and conditions of subdivision approval as established by the *Development Review Board*.

**SECTION 902 Issuance of a Zoning Permit**

The Zoning Administrator shall not issue a Zoning Permit unless an application, fee, plot plan and

any other approvals required by these or other regulations have been properly submitted. The Zoning Administrator shall not issue a Zoning Permit except in conformance with these Zoning Regulations.

- 902.1 The Zoning Administrator shall within thirty (30) days of the submission of an application, act to request for additional supporting information to complete the application, make referral (to State agencies or the Development Review Board), or issue an approval or denial. Failure to act within these time limits will constitute automatic approval.
- 902.2 No Zoning Permit shall take effect until fifteen (15) days after the date of issuance.
- 902.3 No Zoning Permit shall be issued with respect to any lands or USES specified in Title 24, V.S.A., Section 4409(c), as listed below, until the Zoning Administrator has notified the appropriate agency and allowed thirty (30) days for a response as required by State law.
- (1) Forest, Parks and Recreation Department - An USE in or within 1000 feet of any State-owned or leased property. This provision does not apply within any incorporated village or city.
  - (2) Department of Environmental Conservation - Any of the following USES or activities affecting ground or surface water resources:
    - (a) any area designated as a floodplain or wetland,
    - (b) the damming of streams so as to form an impounding area of five ACRES or more for reservoir or recreational purposes, and
    - (c) the drilling of wells deeper than fifty feet or with a potential yield greater than twenty-five thousand gallons per day, except this shall not apply to a well drilled by the owner of a farm or residence for his own USE, or the USE of the farm.
  - (3) Fish and Wildlife Department - Game lands and stream bank area owned or leased by the State.
  - (4) Vermont Agency of Transportation - Airports.
  - (5) Forests, Parks and Recreation Department - The following recreational areas:
    - (a) ski areas with lifts or other equipment other than tows, with total capacity of more than five hundred PERSONS per hour,
    - (b) camps with accommodations for more than fifty PERSONS,
    - (c) MARINAS with accommodations for twenty or more boats with lengths in excess of twenty feet,
    - (d) public beaches, or lands within one thousand feet thereof, and
    - (e) natural areas as defined in Section 2010 of Title 10.
  - (6) Agency of Transportation - Any USE within five hundred feet of the intersection of any entrance or exit ramp providing access to any limited access highway.
- 902.4 If a permit is granted the Zoning Administrator shall provide three (3) written copies as follows:
- (1) One copy shall be retained in a permanent file by the Zoning Administrator.
  - (2) One copy shall be delivered to the applicant citing all restrictions and special agreements, and describing the mandatory appeal period.
  - (3) One copy shall be delivered to the listers of the municipality within three (3) days of the date of issuance.
- 902.5 If a permit is denied, the Zoning Administrator shall provide in writing the findings on which such a decision is based and shall provide instruction to the applicant on the appropriate

process for appeal (Section 960).

**SECTION 903 *Transfer of Zoning Permits***

No Zoning Permit shall be transferred from one party to another unless the party acquiring the permit certifies with the Zoning Administrator that all development will be made in accordance with the approved permit.

**SECTION 910 *CERTIFICATE OF COMPLIANCE/OCCUPANCY***

All projects for which a Zoning Permit is required shall be required to receive a Certificate of Compliance which documents that all work has been completed in accordance with the Zoning Permit and all other local ordinances.

No new STRUCTURE, or existing STRUCTURE which has been vacated for the purpose of ALTERATIONS, and for which a Zoning Permit was required, shall be occupied or used in any way until a Certificate of Occupancy has been issued by the Zoning Administrator. For the purposes of this Ordinance with Certificate of Compliance shall serve as the Certificate of Occupancy where it is required.

**SECTION 911 *Application for Certificate of Compliance***

Upon completion of any work requiring a Zoning Permit, the owner or permittee shall apply in writing to the Zoning Administrator for a Certificate of Compliance.

**SECTION 912 *Issuance of Certificate of Compliance***

Within fourteen (14) days of receipt of such application, the Zoning Administrator shall inspect the premises and issue a written "Statement of Condition" as to compliance with the Zoning Permit, and other applicable local permits and approvals.

912.1 If the Statement of Condition shows compliance with the Zoning Permit and other applicable local permits and approvals, the Zoning Administrator shall issue a Certificate of Compliance.

912.2 If the Statement of Condition shows non-compliance with the Zoning Permit or other applicable local permits or approvals, the Certificate of Compliance shall be denied. The owner shall make such changes as the "Statement of Condition" indicates to be necessary and shall reapply for the Certificate of Compliance.

**SECTION 913 *Partial Issuance of Certificate of Compliance***

For multi-unit buildings in which one Zoning Permit is granted for the building; the Zoning Administrator may issue a partial Certificate of Compliance for individual units if they meet Section 912.1.

**SECTION 920 *EXPIRATION OF PERMITS AND APPROVALS***

A Zoning Permit, variance or CONDITIONAL USE approval shall expire one year from the date of issue. If the work has not been completed, the applicant shall apply to the Zoning Administrator for an extension. The Zoning Administrator may grant a single one-year extension for the identical project only.

**SECTION 930 REVOCATION OF APPROVALS AND PERMITS**

In addition to any other remedies provided for by law, a Zoning Permit, Sign Permit, variance, CONDITIONAL USE approval, or Site Plan approval may be revoked by the Zoning Administrator or Development Review Board, whichever granted the permit or approval, for violation of these Regulations or the terms and conditions of the permit or approval.

Omission or misstatement of any material fact by the applicant or agent on the application or at any hearing which would have warranted refusing the permit or approval shall be grounds for revoking the permit or approval at any time.

**SECTION 940 FEES**

The Legislative Body of the Town shall prescribe and may revise by resolution reasonable fees to be charged with respect to the administration of these Regulations.

**SECTION 950 VIOLATION AND PENALTIES**

- 950.1 In accordance with Title 24, V.S.A., Sections 4444 and 4445, any PERSON who violates the provisions or intentions of this Bylaw shall be fined not more than \$100.00 for each offense. Each day that a violation is continued shall constitute a separate offense. All fines collected for violations of this Bylaw shall be paid over to the Municipality.
- 950.2 No action may be brought under this Section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months.

**SECTION 960 APPEALS**

Any interested PERSON may appeal any action or denial of action under these Regulations as provided in Title 24, V.S.A., Sections 4464 to 4467. The Development Review Board shall act to approve or disapprove any appeal within forty-five (45) days after the close of the final public hearing. Failure to act within this time period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

**SECTION 970 VARIANCES**

A variance from provisions of these Zoning Regulations may be granted only after appeal to the Development Review Board in accordance with the following provisions. The Development Review Board shall act to approve or disapprove any appeal within forty-five (45) days after the close of the final public hearing. Failure to act within this time period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

**SECTION 971 Required Findings**

The Development Review Board may grant variances, and render a decision in favor of the



appellant, if all the following facts are found and the finding is specified in its decision.

- 971.1 That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located;
- 971.2 That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Regulation and that the authorization of a variance is therefore necessary to enable the reasonable USE of the property;
- 971.3 That such unnecessary hardship has not been created by the appellant;
- 971.4 That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate USE or development of adjacent property, reduce access to RENEWABLE ENERGY RESOURCES, nor be detrimental to the public welfare; and
- 971.5 That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Regulations and from the *Plan*.

**SECTION 972 Renewable Energy Resource Structures**

The Development Review Board may grant variances from the provisions of these Zoning Regulations for a STRUCTURE that is primarily a renewable energy resource STRUCTURE, and render a decision in favor of the appellant, if all the following facts are found and the finding is specified in its decision.

- 972.1 It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource STRUCTURE in conformance with the Regulations; and
- 972.2 That the hardship was not created by the appellant; and
- 972.3 That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate USE or development of adjacent property, reduce access to RENEWABLE ENERGY RESOURCES, nor be detrimental to the public welfare; and
- 972.4 That the variance will represent the minimum variance that will afford relief and will represent the least deviation possible from the Zoning Regulation and from the *Plan*.

**SECTION 980 TITLE 24, V.S.A., CHAPTER 117**

**SECTION 981 Applicability**

The provisions of Chapter 117 of Title 24, Vermont Statutes Annotated, as now provided or as hereafter amended shall govern all matters related to these Regulations, including but not limited to the following:

- (1) Administration and enforcement of these Regulations;
- (2) Effect of the adoption of these Regulations;
- (3) Powers of the Zoning Administrator acting as the Administrative officer;
- (4) Requirements for Zoning Permits;
- (5) Penalties and remedies;
- (6) Administration and finance;
- (7) PUBLIC NOTICE; and
- (8) Appeals and the granting of variances.

**SECTION 982 Relationship**

These Regulations shall be read in the context of Chapter 117 of Title 24, Vermont Statutes Annotated, as the same may be amended from time to time. Any provision of these Regulations which is found to be in conflict with that Chapter shall be read in conformance with it.

**SECTION 990 MISCELLANEOUS PROVISIONS**

**SECTION 991 Severability**

The validity of any section or provision of these Regulations will not be held to invalidate any other section or provision.

**SECTION 992 Development Review Board**

The Development Review Board shall consist of the members who are appointed by the Legislative Body of the Town. Individual terms shall commence July 1 for a period of three (3) years and shall continue until June 30 or until a successor has been duly appointed. All appointments shall be made by the Legislative Body of the Town so that, as nearly as may be, no more than one-third of the terms shall expire in any one year. The powers and duties of the Development Review Board and the internal organization and procedures of the Board shall be as prescribed in Title 24, V.S.A., Chapter 117.

**SECTION 993 Implementation**

All Zoning Regulations or interim Zoning Regulations heretofore-in effect in the Town of Milton shall be deemed repealed upon the effective date of the adoption of these Regulations.

**SECTION 994 FLOODPLAIN REGULATIONS**

Appendix A of the Milton Zoning Regulations: *Inundation Hazard Area Regulations* shall take precedence over all sections within the main Articles of the Milton Zoning Regulations for flood hazard areas as described in Section IV of Appendix A.

## **ARTICLE X DEFINITIONS**

### **SECTION 1000 APPLICABILITY AND GENERAL RULES**

The following definitions apply to terms used in these Regulations and in any application forms, permits, certificates, approvals, variances, denials or other documents issued or used in connection with these Regulations unless otherwise specified.

- (1) Definitions contained in Title 24, V.S.A., Chapter 117 are applicable throughout these Regulations.
- (2) Words used in the present tense include the future, words in the plural number include the singular number and words in the singular, the plural.
- (3) The words "shall" and "must" are always mandatory.
- (4) The word "lot" includes the word "parcel."
- (5) The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied."
- (6) Ownership of property means fee simple ownership or a leasehold interest of at least ninety-nine (99) years.

### **SECTION 1010 DEFINITIONS**

- ABANDONED VEHICLE** A motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for more than 48 hours, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed or altered.
- ABANDONMENT** The cessation of maintenance, practice, or USE, whether with the intention to resume or not.
- ACCESSORY** A USE or STRUCTURE on the same lot with, and of a nature customarily and clearly incidental and subordinate to, the PRINCIPAL USE or STRUCTURE. See the definition for PRINCIPAL STRUCTURE and PRINCIPAL USE.
- ACCESSORY APARTMENT** A one-bedroom, independent dwelling unit that is located within or appurtenant to an owner-occupied, detached, single-family dwelling and that is clearly subordinate to the single-family dwelling. The gross floor area of the accessory apartment shall not exceed 40 (forty) percent of the HABITABLE FLOOR AREA of the detached, single family home as it existed at the time of creation of the accessory apartment. The accessory apartment shall have an adequate potable water supply, an adequate wastewater disposal system, and adequate facilities for living, cooking, dining, sleeping, and bathing. The accessory apartment shall be constructed in accordance with the applicable setback, coverage, and

parking requirements of the zoning district in which it is located.

**ADULT DAY CARE FACILITY** An establishment operated as a business or service on a regular basis, whether for compensation or not, to provide meals, personal care, and supervision of medication, protections, supervision and/or education for elderly and/or DISABLED adults who require assistance and supervision or those who need restorative or rehabilitative services. They may provide other services, such as recreational activities, financial services, and transportation. For the purposes of these regulations, the following are not adult day care facilities: group homes, fraternities, sororities, convents, communes, boarding and rooming homes, prison or correctional facilities.

**AGRICULTURE** The production of farm products, including, but not limited to, dairy farming, animal husbandry, horticulture, tree farming, maple sugaring, the USE of farm STRUCTURES, the storage of agricultural products raised or acquired for USE on the premises, and direct sales of products so raised.

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

**ANIMAL SHELTER** A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated or maintained by a public body or nonprofit organization devoted to the welfare, protection and humane treatment of animals.

**ASSEMBLY** The fitting together of manufactured parts into a complete machine, STRUCTURE, item, or unit of a machine, STRUCTURE, or unit.

**ASSISTED LIVING FACILITY** Residences for the elderly and/or DISABLED adults that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide services, such as recreational activities, financial services and transportation.

**ATTACHED** As applied to STRUCTURES, means to share a common wall or walls for a distance of at least five (5) feet.

**BAKERY/DELICATESSEN** A building or STRUCTURE, or part thereof, whose principal business is the sale of sandwiches, baked goods or beverages for consumption primarily off the premises, and whose peak hours of operation typically coincide with the morning rush and lunch time hours.

**BASE FLOOD** The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.

**BED AND BREAKFAST** A single-family residential structure, with up to ten guest rooms, for short-term lodging rooms by the day or by the week. The single-family residential structure must be the primary residence of the owner or operator of the bed and breakfast facility. Meals may be provided to the guests only.

- BUFFER STRIP** An area of land designated as green space along a property line used to lessen the impact of LAND DEVELOPMENT upon adjacent property. No STRUCTURES, other than fences, shall be located within a BUFFER STRIP.
  
- BUILDING** Any STRUCTURE having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.
  
- BUILDING COVERAGE** That part or percent of a lot occupied by buildings, accessory buildings, porches, decks, and in-ground and above ground swimming pools. Building coverage applies to single-family, duplex and three-unit residences.
  
- BUILDABLE ENVELOPE** The area of an approved lot within which all permitted STRUCTURES, ACCESSORY STRUCTURES, taking into account the applicable maximum LOT COVERAGE, exclusive of SETBACKS, areas on an excessive grade and natural features that may not be disturbed.
  
- BUILDING FOOTPRINT** That portion of a lot circumscribed by the foundation walls and roof drip line of all primary and ACCESSORY STRUCTURES.
  
- CHILD DAY CARE FACILITY** A state licensed or registered facility for the care of more than ten children. This operation is a permitted use in zoning districts where it is allowed and requires site plan review before the Development Review Board.
  
- CHILD DAY CARE HOME** A state licensed or registered operation for the care of either six or fewer children or not more than six full-time children and four part-time children. These operations are permitted uses that do not require site plan review.
  
- CHILD DEVELOPMENT CENTER** A building, or part thereof, which provides educational training and developmental guidance to one or more children on a continuous basis not exceeding 24 hours, whether for compensation or not. This USE may also include a CHILD DAY CARE CENTER.
  
- CHURCH** A place of worship that is established and maintained by a religious organization for the purpose of practicing its faith. It includes accessory structures and uses customarily associated with its religious practices. Types of buildings used as a place of worship include but are not limited to cathedrals, chapels, convents, parish houses, synagogues, temples, mosques, and other such places designed to house religious activities.
  
- CIVIC OR FRATERNAL CLUB** An incorporated or unincorporated association for civic, social, cultural, religious, literary, political, or like activities, operated for the benefit of its members and not open to the general public.
  
- CLASS 4 ROAD** Any publicly controlled or owned road, street, or highway not meeting any of the State definitions for Class 1, 2, and 3 highways. In Milton, the Select Board has determined Class 4 roads to be:

**TOWN OF MILTON, VERMONT  
OFFICIAL CLASS 4 ROAD LIST**

<b>T.H.#</b>	<b>T.H. NAME</b>	<b>GRID# ON 911 MAP</b>	<b>LENGTH</b>
11	Swamp Road	K08	1.20 MI.
17	Timber Lane	J 11	0.20 MI.
24	Dixon Road	J 09	0.47 MI.
25	Bezio Road	I 08	0.14 MI.
26	Marcoux Road	I 08	0.10 MI.
29	Slim Brown Road	I 10	0.06 + 0.10 MI.
35	Kingsbury Road	F 10	0.16 MI.
36	Hardscrabble Road	F 11	0.70 MI.
39	Devino Road	E 12	0.50 MI.
41	Lamphere Road	G 08	0.65 MI.
42	Dugout Road	G 08	0.20 MI.
56	Lady Slipper Lane	E 08	0.25 MI.
58	PreCast Road	F 08	0.10 MI.
60	Petty Brook Road	F 09	0.13 MI.
69	Kienle Road	H 11	0.13 MI.
72	Ritchie Avenue	G 10	0.20 MI.
78	Erling Drive	G 11	0.03 MI.
94	Doris Drive	F 10	0.06 MI.

**CLINIC** Means a building, or part thereof, used by qualified medical practitioners, dentists, ophthalmologists, osteopaths, and alternative medicine practitioners, and veterinarians having treatment rooms and facilities for more than two practitioners and used for public or private medical, surgical, physiotherapeutic or other human health purposes, except when included within or ACCESSORY to a hospital.

**CLUSTER** A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for natural areas, recreation, OPEN SPACE, and preservation of environmentally sensitive features.

**COMMERCIAL** An endeavor having profit as its chief aim.

**COMMERCIAL PLANT NURSERIES, GREENHOUSES, AND LANDSCAPING SERVICES**

The USE of land or STRUCTURES for the purpose of cultivating, raising, harvesting, selling, or maintaining plants.

**COMMERCIAL RETAIL BUSINESS** A store owned and operated as a single legal entity whose principal purpose is to provide direct retail sales of goods, merchandise, and/or food products to the public and which may include service and storage facilities for any items sold on the premises.

**COMMUNITY SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE**

A residence providing food, shelter, medical care, legal assistance, personal guidance, and other services to persons who have been victims of domestic violence, including children of

such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

**CONDITIONAL USE** A USE which may be permitted in a district only by approval of the Development Review Board after PUBLIC NOTICE and public hearing if the Development Review Board determines that the proposed USE conforms to Section 500 of these Regulations.

**COMPOST** Plant debris from yard waste including tree, shrub, flower, vegetable, grass and other herbaceous and woody plant clippings which is arranged in a way that encourages rapid decomposition to produce a safe soil-like substance for beneficial use when applied to the land.

**CONSTRUCTION AND AGRICULTURAL EQUIPMENT SALES AND SERVICE**

The USE of land or STRUCTURES for the sale and service of construction, agricultural, or other heavy equipment.

**CORNER LOT** A lot located at the intersection of two or more STREETS which meet at an angle of less than 120 degrees.

**DISABLED** In reference to an individual, a physical or mental impairment that substantially limits one or more of the major life activities: a record of such impairment: or regarded as having an impairment. This definition shall refer to the U.S. Department of Justice Code of Federal Regulations, 28 CFR Part 36, Subpart A 36.104 Definitions

**DISTRIBUTING** The storage, receipt, or transportation of goods, products, cargo and/or materials for the purpose of distribution to other locations.

**DRIVE-UP FACILITY** An accessory structure or addition that may be detached from or attached to a principal business structure for the purpose of providing vehicular access to the purchase of the goods or services of the business.

**DRIVEWAY** A private roadway providing access to a PUBLIC ROAD or PRIVATE RIGHT-OF-WAY from a maximum of three lots and no more than three DWELLING UNITS. The Town of Milton shall not responsible for the maintenance and repair of DRIVEWAYS.

**DRIVEWAY, SHARED** A driveway providing two or more DWELLING UNITS access to a PUBLIC ROAD or PRIVATE RIGHT-OF-WAY.

**DRY CLEANING PLANT** A facility for dry cleaning of fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents, and the processes incidental thereto. This is not to include premises where the dry clean articles are to be dropped off or picked up directly by the customer.

**DUPLEX** A detached residential STRUCTURE containing two SINGLE FAMILY DWELLING UNITS which share one or more walls.

**DWELLING UNIT** A room or rooms connected together constituting a separate, independent housekeeping unit physically separated from any other rooms or DWELLING UNITS which may be in the same STRUCTURE, and containing independent cooking and sleeping facilities, but excluding lodging facilities such as MOTELS and COUNTRY INNS.

**EARTH AND MINERAL EXCAVATION** The removal of loam, rock, stone, gravel, sand or soil from a site so as to change the natural contours.

**ELDERLY HOUSING COMPLEX** Multifamily housing designed for elderly and/or DISABLED people.

**EMPLOYEE TRAINING CENTER** The USE of land or STRUCTURES for the education and instruction of employees to perform job-related functions on the same job site as the education and instruction is provided, or within a PLANNED UNIT DEVELOPMENT which contains the job site.

**ENCLOSED** Located entirely within a STRUCTURE.

**ENCLOSED OUTDOOR STORAGE** The storage of materials fully or partially enclosed by a STRUCTURE such that the materials are not visible from off-site or from STREETS and provide adequate safeguards.

**EXPANSION** Any change to a STRUCTURE which results in any increase in the GROSS FLOOR AREA of the STRUCTURE. Any change to a USE which results in an increase in area devoted to a USE or an intensification of the USE.

**FAMILY** An individual or group of PERSONS related by blood, marriage, or legal adoption; or a group of not more than five unrelated PERSONS living together as a single housekeeping unit.

**FILL** Any material or substance used to raise the natural contours.

**FINANCIAL ESTABLISHMENT** A bank, savings and loan, credit union, or other similar establishment that provides financial services to its customers.

**FOOTPRINT LOT** A parcel of land which consists solely of the area directly under a structure.

**FORESTRY** The growing, cutting or harvesting of commercial timber or other forest products; the growing, maintenance or preservation of forest cover for watershed protection or wildlife habitat.

**FRONTAGE** That portion of a lot, required by Section 530, which abuts on a public STREET, public waters, approved private STREET, or approved public right-of-way. The minimum required FRONTAGE for a lot, as prescribed in Articles III and IV, shall be provided along a continuous front property line of a lot and shall be maintained for a depth of at least one hundred (100) feet. CORNER LOTS, which abut STREETS intersecting at an angle of less than 120 degrees, shall provide the required FRONTAGE and FRONT SETBACK along each STREET. SHORELINE FRONTAGE shall be measured from the ordinary high water mark of a lake or pond.



**GROSS FLOOR AREA** The sum, in square feet, of the total horizontal areas of all floors of a building measured from the interior face of exterior walls. This shall include all storage and utility areas, basements, attics, and mezzanines.

**HABITABLE FLOOR AREA:** The temperature-controlled, finished floor area within a dwelling unit exclusive of unfinished garages, attics and cellars.

**HAZARDOUS MATERIALS** Any substance, material or combination of materials by reason of its explosive, flammable, toxic, acidic, corrosive, an etiologic agent, caustic, pathogenic, radioactive, or otherwise injurious properties, may be detrimental or deleterious or be reasonably assumed to constitute a risk to human safety, air quality or water resources. Refer to Title 10 V.S.A., Ch. 159, Section 6602(4) and (16).

**HEIGHT (of a structure)** The vertical dimension of a STRUCTURE measured from the average preconstruction grade level at the base of the STRUCTURE to the highest point of the structure (if it has no roof), or to the highest point of the roof (if the roof is flat or mansard) or to the average level between the eaves and the highest point of the roof (if the roof is of any other type), unless modified by more specific provisions in this Ordinance.

**HOME OCCUPATION** An occupation, **personal service**, profession, or trade customarily and commonly carried out by an occupant of a DWELLING UNIT as a secondary USE which is customary in residential areas and which does not have an undue adverse effect upon the character of the residential area in which the DWELLING UNIT is located, and which, for the purposes of this Ordinance, shall in all cases comply with the requirements of Section 600.

**INDOOR RECREATION** Public or private recreation facilities which take place principally indoors (for example: gymnasiums, laser tag, arcades, pools, bowling alleys).

**INDOOR THEATER** An enclosed place of mass assembly designed for the viewing of movies, plays, concerts, live performances, or other cultural events.

**JUNK** Any scrap copper, brass, iron, steel and other scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, plastic, fiberglass, rubber debris, waste, trash or any dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof.

**JUNK MOTOR VEHICLE** A discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or one other than an on-premise utility vehicle which is allowed to remain unregistered for a period of ninety (90) days from the date of discovery.

**KENNEL** Any premises on which caring, breeding, or overnight housing of four or more dogs, cats or other domestic animals is done for monetary purposes.

**LAND DEVELOPMENT** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural ALTERATION, relocation or enlargement of any building or other STRUCTURE, or of any mining,

excavation or landfill, and any change in the USE of any building or other STRUCTURE, or land, or extension of USE of land.

**LIGHT INDUSTRY** The assembly, manufacture, processing, packaging, or other industrial operations in such manner that all resulting goods and by-products or waste materials are confined to the premises or properly disposed of in a manner that avoids any type of pollution of air, land, or water and which does not create a public or private nuisance from excess noise, odor, or lighting and is otherwise non-detrimental to abutting properties.

**LIGHT MANUFACTURING** The processing and fabrication of materials or substances into new products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emissions which will disturb or endanger neighboring properties. LIGHT MANUFACTURING USES include, but are not limited to, home occupations, electrical instruments, office machines, printed materials, plastic goods, pharmaceutical goods, food processing, laundry and dry cleaning plants, and similar USES.

**LIKE KIND QUALITY** Having characteristics that allow a use to be located in harmony with other adjacent uses and to be compatible with the overall character of the neighborhood. Some elements affecting compatibility include HEIGHT, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

**LOT AREA** The total area within the property lines of a lot excluding any part thereof lying within the boundary of a public STREET, private STREET, right-of-way or proposed public STREET.

**LOT COVERAGE** That part or percent of a lot occupied by buildings, STRUCTURES, including accessory buildings, driveways, parking areas, sidewalks, alternative transportation paths, vehicle travel lanes, overhead canopies above unpaved areas, utility facilities, storage tanks for commercial use, and designated storage areas including storage areas for boats, trailers, or other vehicles. For the purposes of these regulations, lot coverage does not include private septic systems or wells. Additionally, lot coverage does not include aboveground public infrastructure located within easements across private property. Lot coverage applies to all uses other than single-family, duplex and three-unit residences.

**LUMBERYARDS** A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber by performing mill work, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.

**MANUFACTURING** The processing and fabrication of materials or substances into new products, including the assembling of component parts, the creation of products, and the

blending of materials, such as lubricating oils, plastics, resins, or liquors. Restaurants and Restaurants, Fast Food are not included within this use.

**MARINA** A harbor or boat basin providing dockage, supplies, and services for small marine pleasure craft.

**MIXED USE** The development of a structure or one or more tracts of land with a variety of complementary and integrated USES. USES may be comprised of any combination of permitted or CONDITIONAL USES allowed under the designated zoning district, as defined by Articles III and IV of these regulations.

**MOBILE/MANUFACTURED HOME** A structural dwelling unit designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis, to a building site in one or more sections, and limited to those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, and are 750 or more gross square feet in area, are built on a permanent chassis, and designed to be used as year-round dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

**MOBILE HOME PARK** A tract of land with a minimum size of two acres under unified ownership which has been planned for the placement of four or more mobile homes for non-transient use and which has been approved by the Development Review Board as a subdivision.

**MODULAR HOME** A dwelling unit constructed of wood in multiple sections in a factory in accordance with national building codes and shipped to its home site on an independent trailer(s) where it is secured to a permanent foundation and assembled in modules.

**MOTEL** Any building in which rooms or living accommodations are rented to transients whose stay does not exceed six days. The term MOTEL shall include hotels and rooming houses.

**MULTIFAMILY DWELLINGS** A residential structure designed and constructed to house three or more individual dwelling units each with its own cooking, dining, living, sleeping, and bathing facilities.

**NEIGHBORHOOD CONVENIENCE STORE** A general store of not greater than 7,500 square feet providing for the sale of standard convenience goods for day-to-day living needs, including the sale of gasoline.

**NON-COMPLYING STRUCTURE** A STRUCTURE or part thereof not in conformance with the Zoning Regulations covering building bulk, dimensions, HEIGHT, area, yards, SETBACKS, density, or off-STREET parking or loading requirements for the district in which it is located, where such STRUCTURE conformed to all applicable laws, ordinances and regulations prior to the enactment of these Regulations.

**NON-CONFORMING USE** USE of land or STRUCTURE which does not comply with all USE

regulations for the district in which it is located, where such USE conformed to all applicable laws, ordinances and regulations prior to the enactment of these Regulations; provided, however, that RECYCLING YARDS, as that term is defined in these Regulations, shall comply with Section 870 of these Regulations.

**OFFICE, GENERAL**

Facilities occupied by consulting firms, clerical services, real estate or insurance agencies, doctors, dentists, lawyers, architects, engineers, accountants, government offices, travel agencies, FINANCIAL INSTITUTIONS (including banks), veterinarians, and establishments providing similar services, but not including manufacturing, repairing, processing, or fabrication of any article, substance or commodity, or the retail sale of goods.

**OFFICE, MEDICAL**

An establishment where patients are examined and treated by doctors, dentists or other medical professionals but not hospitalized overnight. A medical office may include as an ancillary use the assembly, fitting, testing and sale of products directly related to the medical service provided in the same establishment.

**OPEN SPACE:**

Any parcel or area of land essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space. It may include, but not limited to, active recreational facilities such as play equipment, ball fields, court games, and picnic tables.

**OUTDOOR RECREATION**

Private or public outdoor recreation activities, ranging from activities of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites or fields, to less energetic activities such as hiking, picnicking, and table games. For the purposes of these regulations, outdoor recreation includes but is not limited to playgrounds, parks with or without sports fields, tennis courts, swimming pools, boating access, skate or bike parks, skating rinks, golf courses, bike paths, cross country ski trails, nature areas, picnic areas, and equestrian trails.

**OUTDOOR STORAGE**

The storage of materials, screened from view in other than a completely ENCLOSED STRUCTURE.

**PERMANENT DWELLING**

A DWELLING UNIT designed, arranged, or intended for USE for at least six months in any one calendar year.

**PERSON**

An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

**PERSONAL SERVICES**

Establishments primarily engaged in providing services involving the care of a person and/or his/her personal goods or apparel. Sales of products must be clearly incidental to the services provided. Personal services include but are not limited to tailor, photographic processing, travel agent, laundry service, linen supply, diaper service, beauty and barbershops,

massage therapy, shoe repair, funeral services, repair services and clothing rental.

**PLANNED UNIT DEVELOPMENT** The development of one or more lots, involving one or multiple owners, with multiple USES in one or more BUILDINGS on the lot or lots; the plan of which may not correspond to the area, density or dimensional requirements or allowable number of STRUCTURES and USES per lot as established in any one or more ZONING DISTRICTS. The specific requirements of a PLANNED UNIT DEVELOPMENT and the area, density and dimensional requirements which may be modified are defined in each ZONING DISTRICT in which PLANNED UNIT DEVELOPMENTS are allowed.

**PRIMARY UNIT** The unit other than an ACCESSORY APARTMENT located within a single FAMILY STRUCTURE containing an ACCESSORY APARTMENT approved by the Development Review Board.

**PRINCIPAL STRUCTURE** A STRUCTURE having significant or primary USE and justifying its own utilization (such as a dwelling or office building) as contrasted to ACCESSORY STRUCTURES which are incidental or subordinate to primary STRUCTURES and do not alone justify their utilization (such as a tool shed or auto garage used in conjunction with a dwelling). Certain STRUCTURES may be either principal or ACCESSORY depending upon utilization, such as a parking garage as an ACCESSORY STRUCTURE to a high-rise apartment or as a PRINCIPAL STRUCTURE when operated commercially in a business area.

**PRINCIPAL USE** The significant or primary activities carried out within a STRUCTURE or upon land (such as RETAIL SALES within a store or occupancy of a DWELLING UNIT as residence) as contrasted to ACCESSORY USES which are incidental or subordinate to primary USES (such as sale of soft drinks at an automobile service station). Certain USES may be either principal or ACCESSORY depending upon their relationship with other USES, as for example, a newsstand as an ACCESSORY USE within a hotel lobby or as a PRINCIPAL USE within a separate STRUCTURE.

**PRINTING FACILITY** An establishment in which the principal business consists of duplicating and printing services, including publishing, binding and engraving.

**PRIVATE FACILITY** A building and related facilities owned and/or operated by a corporation association or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members.

**PRIVATE RIGHT-OF-WAY** Any RIGHT-OF-WAY that is not a public right-of-way. The Town of Milton shall not be responsible for the maintenance and repair of PRIVATE RIGHTS-OF-WAY. PRIVATE RIGHTS-OF-WAY are developed with the understanding that they shall never be offered for dedication to the Town of Milton.

**PRIVATE ROAD** Any road that is not offered to and accepted by the Town as a PUBLIC ROAD.

**PUBLIC FACILITY** State or community owned and operated institutions and facilities; public and private schools and other educational institutions certified by the Vermont Department of education; churches and other places of worship, covenants and parish houses; public and private hospitals; regional solid waste management facilities certified under 10 V.S.A. Chapter 159; and hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. §6606a.

**PUBLIC NOTICE** The form of notice prescribed by Title 24, V.S.A., Chapter 117, Section 4447, as the same now provides or may hereafter be amended.

**PUBLIC ROAD** A road, street, or highway legally controlled or owned and regularly maintained by either the Town of Milton or the State of Vermont and which meets a Class 1, 2, or 3 road classification under State law.

**QUEUE STORAGE LENGTH** The length of an exiting DRIVEWAY, measured from its intersection with a STREET, along which there is no access for vehicles to enter or cross the DRIVEWAY.

**RECYCLING YARD** Any place of OUTDOOR STORAGE or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling JUNK or as a scrap metal processing facility. "RECYCLING YARD" also means any place of OUTDOOR STORAGE or deposit, not in connection with a business, which is maintained or used for storing or keeping four (4) or more JUNK MOTOR VEHICLES which are visible from any portion of a public highway or adjacent property. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than ninety (90) days for inspection or repairs. It further does not mean a bottle redemption center or bottle deposit center.

**REFUSE** All solid wastes including garbage, rubbish, ashes, street clearings, dead animals, abandoned automobiles and parts thereof, household appliances, and solid market and Industrial wastes.

**REINCORPORATION** The reintegration of an ACCESSORY APARTMENT into the PRIMARY UNIT, resulting in the removal of its kitchen.

**RENEWABLE ENERGY RESOURCES** Energy available for collection or conversion from direct sunlight, wind, running water, organically-derived fuels including wood, agricultural sources, waste materials, waste heat, and geothermal sources.

**RESEARCH AND DEVELOPMENT LABORATORIES** The USE of land or STRUCTURES for the research and development of new or improved goods, products, materials, or processes.

**RESTAURANTS** A building or STRUCTURE, or part thereof, whose principal business is the

preparation and serving of food and refreshments to the public for consumption within the building or STRUCTURE, but does not include a drive-in restaurant or take-out restaurant or fast food restaurant.

**RESTAURANTS, FAST FOOD** A building or STRUCTURE, or part thereof, whose principal business is the sale of foods or beverages, for consumption either on or off the premises, and whose operation is characterized by (1) service of food or beverage in containers or in paper, plastic or other disposable containers, (2) time, and/or (3) insufficient seating facilities within the restaurant building for the volume of food sold. They may include inside seating, drive through and take-out/carry out services, perhaps all at the same time. This definition shall not include delicatessen or bakeries.

**RETAIL SALES** A store or shop providing direct retail sale to the ultimate consumer or persons without a resale license, which may include service facilities for merchandise sold on the premises.

**SATELLITE DISH ANTENNA** A directional antenna having a concave reflector.

**SCENIC VIEWS** An area visible from a highway, waterway, railway, major hiking, biking or equestrian trail that provides views over water, and across expanses of land such as farmlands, woodlands, coastal wetlands, mountaintops or ridges.

**SEASONAL DWELLING** A DWELLING UNIT designed, arranged, or intended for USE for period of time of less than six (6) months in any calendar year.

**SETBACK** A required open area which shall be unoccupied and unobstructed in accordance with Section 550. The SETBACK shall be of a depth prescribed in Articles III and IV and shall run the entire perimeter of a lot.

**SETBACK, FRONT** An area extending the full width of a lot and measured for the prescribed depth from the front property line of a lot.

**SETBACK, REAR** An area extending the full width of a lot and measured for the prescribed depth from the rear lot line of a lot.

**SETBACK, SIDE** An area extending between the front and REAR SETBACK areas of a lot measured for the prescribed depth from the side lot lines on each side of a lot.

**SHORELINE** The ordinary high water mark of a lake or pond.

**SIGN** Any device designed to inform or attract the attention of PERSONS not on the premises which the device is located. For the purposes of these Regulations, such devices located entirely within a PRINCIPAL STRUCTURE shall not be considered SIGNS.

**SINGLE FAMILY DWELLING** A residential STRUCTURE designed and constructed to house one or more PERSONS living as single housekeeping it. A State licensed or

registered residential care home or group home, serving not more than eight PERSONS who are developmentally disabled or physically handicapped, shall be considered by right to constitute a SINGLE FAMILY DWELLING, except that no such home shall be so considered if it locates within 1,000 feet of another such home. A State registered or licensed day care facility serving six or fewer children shall be considered by right to constitute a SINGLE FAMILY DWELLING. MOBILE OR MANUFACTURED HOMES and MODULAR HOMES shall each constitute a single family dwelling.

**SLAUGHTER HOUSE** A facility for the slaughtering and processing of animals and the refining of their byproducts.

**STATE FACILITIES** The USE of land or STRUCTURES, not otherwise classified by these Regulations, by the State of Vermont, including, but not limited to, correctional institutions, laboratories, and landfills.

**STREET** A public or properly approved private thoroughfare for vehicular traffic which serves as the principal means of access to more than three DWELLING UNITS.

**STREET, ARTERIAL** Those STREETS defined as State highways in the *Comprehensive Land Use Plan*.

**STREET, COLLECTOR** Those STREETS defined as Class II Town Highways or State Aid Roads in the *Comprehensive Land Use Plan*.

**STREET, LOCAL** Any STREET not classified as an arterial or COLLECTOR STREET.

**STRUCTURE** Anything constructed or erected, the use of which requires location on or within the ground or attachment to something having location on or within the ground. For the purposes of these regulations, MOBILE/MANUFACTURED HOMES shall be considered STRUCTURES. For the purposes of these regulations, a driveway, parking area, sidewalk or bicycle path, sign, recreational vehicle, trailer or other vehicle on wheels not regularly used for the manufactured purpose, private septic system or well is not considered a structure. For the definition of STRUCTURE in the Special Flood Hazard Area, see Appendix A, Section X1.

**STUDIO** A single residential unit in which the bedroom, living room and kitchen are all located in the same room.

**TEMPORARY SIGN** A SIGN used to announce the opening or closing of a business, a change of ownership or management of a business, or a special sale or promotional event. These include but are not limited to banners, building mounted signs and freestanding signs.

**TEMPORARY SPECIAL SALES** The USE of land or STRUCTURES of the sale of goods or materials for a limited period of time. TEMPORARY SPECIAL SALES include, but shall not be limited to, auctions, garage sales



and lawn sales.

**TRANSPORTATION FACILITIES** Establishments primarily engaged in furnishing transportation services, including but not limited to passenger charter service, bus terminals, heliopads for transporting of personnel only, and train depots.

**TRAVELER SERVICES** The provision of goods and services primarily to PERSONS traveling through the area, including RETAIL SALES of gasoline, and food, RESTAURANTS, and lodging facilities.

**TRIPLEX – OWNER OCCUPIED** A building containing three dwelling units; one of which is occupied by the owner of the property.

**TRUCKING** The USE of land or STRUCTURES for the storage, transportation, and distribution of goods and materials.

**TRUCK STOP** Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews. This use is not intended to include MOTELS.

**UNDEVELOPABLE SOIL** Soils classified by the *Soil Survey of Chittenden County, Vermont* as having severe limitations for development as proposed.

**USE** The specific purpose for which land or a building, or unit thereof, is designed, arranged, or intended; or for which it is or may be occupied or intended. The term "permitted USE" or its equivalent shall not be deemed to include any NON-CONFORMING USE.

**UTILITIES AND UTILITY OFFICES** The USE of land or STRUCTURES for the provision of public utilities, such as electricity, telephone service, and water. Utility facilities include transformer stations, water tanks and towers, pump stations, telephone exchanges, and the like.

**VACATION TRAILER OR TENT CAMP** Any lot on which three or more vacation trailers or tents are occupied for a period of greater than one week per year.

**VENDOR SALES** The sale of goods or materials along a public STREET, whether in a roadside stand or not and whether located on private property or not.

**WAREHOUSING, PRIVATE** A building used primarily for the storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

**WAREHOUSING, PUBLIC** A building used primarily for the storage of goods and materials and available to the general public for a fee.

**WASTE (RUBBISH)** All solid wastes consisting of both combustible and non-combustible wastes such as paper, wrappings, plastics, paint or any other petroleum based products, ashes, cigarettes, cardboards, ferrous and non-ferrous metals, yard clippings, leaves, wood, trees, stumps, branches, glass, bedding, crockery, and similar materials. Yard clippings, leaves, wood, trees, stumps and branches that are used to create compost or buried under clean fill on the site on which they originated shall not be considered waste (rubbish) provided that burial locations are not located within a wetland or within 75 feet of surface water or a well.

**WETLANDS** Those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas as grow food or crops in connection with farming activities.

**WHOLESALE** The USE of land or STRUCTURES for the sale of goods or materials in quantity usually for resale, but not to the general public.

**WIRELESS COMMUNICATION FACILITY** Any tower or other support structure, including but not limited to antennas intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic-spectrum-based transmissions/reception regulated by the FCC; the construction or improvement of a road, trail, building, or structure incidental to a communication facility. This definition does not include amateur radio facilities.

**ZONING DISTRICT** A geographic area defined by the ZONING MAP within which the provisions and regulations of this Ordinance apply uniformly to each class or kind of situation, USE, and STRUCTURE.

**ZONING MAP** A map delineating the ZONING DISTRICTS of the Town of Milton, maintained in the Planning and Zoning office.

## **ARTICLE XI AMENDMENTS**

### **SECTION 1100 INITIATION OF AMENDMENTS**

An amendment to these Regulations or to the ZONING MAP may be proposed by the Planning Commission, the Select Board, any department or agency of the Town, or any other individual, corporation, or agency.

A proposed amendment prepared by a PERSON or body other than the Planning Commission shall be submitted in writing to the Planning Commission along with any supporting documents. The Planning Commission may then proceed under this Article as if the amendment had been prepared by the Planning Commission.

### **SECTION 1110 PLANNING COMMISSION ACTION**

#### **SECTION 1111 Planning Commission Review**

- 1111.1 All proposed amendments shall be submitted to the Planning Commission for study and recommendation.
- 1111.2 The Planning Commission shall study proposed amendments to determine the need and justification for the change and the relationship of the proposed amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purposes of these Regulations, the *Comprehensive Plan*, and any other duly adopted plans and policies. When considering an amendment, the Planning Commission may prepare a written report on the proposal.
- 1111.3 Based on its study, as described in Section 1111.2 and Section 1112, the Planning Commission may decide not to take any further action with regard to any application for amendment.

#### **SECTION 1112 Report on Zoning Map Amendments**

If a proposed amendment would alter the zoning designation of any land area, a report may be prepared by the Planning Commission which covers the following points:

- (1) the probable impact on the surrounding area, including the effect of any resulting increase in traffic, and the probable impact on the overall pattern of land USE.
- (2) the long-term cost or benefit to the Town, based upon consideration of the probable impact on: (a) the Town's tax base and (b) the need for public facilities.
- (3) the amount of vacant land which is: (a) already subject to the proposed new designation and (b) actually available for that purpose, and (c) the need for additional land for that purpose.
- (4) the suitability of the area in question for the proposed purpose, after consideration of: (a) appropriate alternative locations, (b) alternative USES for the area under consideration, and (c) the probable impact of the proposed change on other areas similarly designated.
- (5) the appropriateness of the size and boundaries of the area proposed for change, with respect to the area required for the proposed USE, land capability, and existing development in the area.
- (6) the consistency of the proposed change with any duly adopted plans for the Town, including

the *Comprehensive Plan* and the Capital Improvement Program.

**SECTION 1113 Public Hearing Required**

The Planning Commission shall hold at least one public hearing within the Town after PUBLIC NOTICE on the proposed amendment. Such public hearing shall be warned in accordance with the requirements of Title 24, V.S.A., Section 4447.

At least fifteen days prior to the first hearing, a copy of the proposed amendment and any written report shall be distributed in accordance with Title 24, V.S.A., Section 4403(e).

**SECTION 1114 Planning Commission Submittal**

After the public hearing, the Planning Commission may make revisions to the proposed amendment and to any written report, and shall thereafter submit the proposed amendment and any written report to the Milton Select Board. Simultaneously with the submittal to the Select Board, the Planning Commission shall file a copy of the proposed amendment and any written report with the Town Clerk for public review.

**SECTION 1120 SELECT BOARD ACTION**

**SECTION 1121 Public Hearing Required**

The Select Board shall hold the first of one or more public hearings, after PUBLIC NOTICE in accordance with Title 24, V.S.A., Section 4447, on a proposed amendment not less than thirty nor more than 120 days after the amendment is submitted by the Planning Commission. Copies of the amendment and any written report of the Planning Commission shall be made available to the public upon request.

**SECTION 1122 Changes by the Select Board**

The Select Board may change the proposed amendment, but shall not do so less than 15 days prior to the final public hearing. If the Select Board at any time makes substantial changes in the concept, meaning or extent of the proposed amendment, it shall warn a new public hearing or hearings. If any part of the proposal is changed, the Select Board, at least 15 days prior to the hearing, shall file a copy of the changed proposal with the Town Clerk and with the Planning Commission. The Planning Commission may submit a report on the changed amendment to the Select Board at or prior to the public hearing.

**SECTION 1130 ADOPTION OF AMENDMENTS**

Any amendment to these Regulations shall be adopted only by a majority of the members of the Select Board after the final public hearing. The amendment shall become effective 21 days after adoption.

**SECTION 1140 FAILURE TO ACT**

If a proposed amendment is not approved or rejected within one year of the date of the final public hearing of

the Planning Commission, it shall be considered disapproved. However, if a petition is filed within 60 days of the end of that year, which petition shall be signed by five percent of the voters of Milton, and which petitions a meeting of the Town to consider the amendment, then a Town meeting shall be duly warned for the purpose of acting on the proposed amendment by Australian ballot.

#### **SECTION 1150 PROTESTS AGAINST AMENDMENTS**

A written protest against a proposed amendment may be filed at least 15 days before the vote on the adoption of the amendment by: (1) five percent of the voters, (2) the owners of forty percent of the lots or area included in the proposed amendment, or (3) the owners of forty percent of the lots or area located outside the proposed amendment but within two hundred feet from the outer limits of lots included in the proposed amendment. If such a protest is filed, a proposed amendment shall become effective only when adopted by a two-thirds vote of all members of the Select Board.

#### **SECTION 1160 AMENDMENT BY PETITION**

Notwithstanding the provisions of Section 1111.3, if a proposed amendment is supported by a petition signed by not less than five percent of the voters of Milton, the Planning Commission shall correct any technical deficiency and shall, without otherwise changing the amendment, promptly proceed in accordance with Section 1111 as if the amendment had been prepared by the Planning Commission. The Planning Commission shall also, after its final public hearing, promptly submit the amendment, with changes only to correct technical deficiencies, to the Select Board, together with any recommendation or opinion it considers appropriate.

#### **SECTION 1170 RECONSIDERATION OF PROPOSED AMENDMENTS**

The Select Board shall not reconsider a proposed amendment to the OFFICIAL ZONING MAP if such amendment requests a change to the same zoning classification for the same lot, parcel, or portion thereof, for a period of one year from the date for final action of the prior request unless the Planning Commission recommends to the Select Board that such reconsideration be given, after the Planning Commission has found that either: (a) there has been a substantial change in the character of the area, or (b) evidence of factors or conditions exist which were not considered by the Planning Commission or the Select Board in previous deliberations which might substantially alter the basis upon which the previous determination was reached.

#### **SECTION 1180 RELATIONSHIP TO TITLE 24**

Notwithstanding the provisions of this Article, all amendments to these Regulations shall be completed in accordance with the requirements of Title 24.

**TOWN OF MILTON  
INUNDATION HAZARD AREA REGULATIONS  
APPENDIX A to the Town of Milton Zoning Regulations**

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**I. Statutory Authorization and Effect**

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414, there is hereby established a bylaw for areas at risk of flood damage in the Town of Milton Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

**II. Statement of Purpose**

It is the purpose of this bylaw to:

- A. Implement the goals, policies, and recommendations in the current municipal plan;
- B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
- C. Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor,
- D. Manage the flood hazard area designated pursuant to 10 V.S.A. Chapter 32 § 753, the municipal hazard mitigation plan; and make the Town of Milton its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

**III. Other Provisions**

**A. Precedence of Bylaw**

The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

**B. Validity and Severability**

If any portion of this bylaw is held unconstitutional or invalid by a competent court, the remainder of this bylaw shall not be affected.

**C. Warning of Disclaimer of Liability**

This bylaw does not imply that land outside of the areas covered by this bylaw will be free from flood damages. This regulation shall not create liability on the part of the Town of Milton or any municipal official or employee thereof, for any flood damages that result from reliance on this regulation, or any administrative decision lawfully made hereunder.

#### **IV. Lands to Which these Regulations Apply**

The Milton Zoning Map includes the Flood Hazard Zoning District for reference but the boundaries of the District on the Zoning Map shall not take precedence over the following official regulated area:

##### **A. Regulated Flood Hazard Areas**

These regulations shall apply to the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753, which are hereby adopted by reference and declared to be part of these regulations. The location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.

##### **B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas**

Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits *have not* been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

### V. Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood.

#	Activity	Hazard Zone	
		Special Flood Hazard Area	Floodway
	<b>P</b> Permitted <b>C</b> Conditional Use Review <b>X</b> Prohibited <b>A</b> Exempted		
1	New Structures	X	X
2	Storage	X	X
3	Improvements to Existing Structures	P, C	C
4	Small Accessory Structures	P	X
5	At Grade Parking	P	C
6	Replacement water supply or septic systems	C	C
8	Fill as needed to elevate existing structures	C	C
9	Fill	X	X
12	Grading	C	C
13	Road maintenance	A	A
14	Road improvements	C	C
15	Bridges and culverts	C	C
16	Channel management	C	C
17	Recreational vehicles	P	P
18	Open space, recreation	A	A
19	Forestry	A	A
20	Agriculture	A	A

### VI. Development Review in Hazard Areas

#### A. Permit

A zoning permit is required from the Zoning Administrator for all development in all areas defined in Section IV. Development that requires conditional use approval, non-conforming use approval, or a variance from the Development Review Board (DRB) under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the ZA. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section VI and VII. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

#### B. Permitted Development

For the purposes of review under these regulations, the following development activities in the Special Flood Hazard Area where outside of the Floodway, and meeting the Development Standards in Section VII, require only a zoning permit from the ZA:

1. Non-substantial improvements;
2. Accessory structures;
3. Development related to on-site septic or water supply systems;



4. Building utilities;
5. At-grade parking for existing buildings; and,
6. Recreational vehicles.

#### C. Prohibited Development in Special Flood Hazard Area

1. New residential or non-residential structures (including the placement of manufactured homes);
2. Storage or junk yards;
3. New fill except as necessary to elevate structures above the base flood elevation;
4. Accessory structures in the floodway;
5. Critical facilities are prohibited in all areas affected by mapped flood hazards; and,
6. All development not exempted, permitted, or conditionally permitted.

#### D. Conditional Use Review

Conditional use review and approval by the DRB, is required prior to the issuance of a permit by the ZA for the following proposed development :

1. Substantial improvement, elevation, relocation, or flood proofing of existing structures;
2. New or replacement storage tanks for existing structures;
3. Improvements to existing structures in the floodway;
4. Grading, excavation; or the creation of a pond;
5. Improvements to existing roads;
6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing;
7. Public utilities;

#### E. Exempted Activities

The following are exempt from regulation under this bylaw:

1. The removal of a building or other structure in whole or in part;
2. Maintenance of existing roads and storm water drainage;
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices; and,
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP). Prior to the construction of farm structures the farmer must notify the ZA in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

#### F. Variances

Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424 (E), and 44 CFR Section 60.6, after a public hearing noticed as described in Section VIII.

Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

### G. Nonconforming Structures and Uses

The DRB may, after public notice and hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that:

1. The proposed development is in compliance with all the Development Standards in Section VII of this bylaw;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 18 months; and
4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed so as to meet the development standards in this bylaw.

**VII. Development Standards** – The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

#### A. Special Flood Hazard Area

1. *All development* shall be:
  - a. Reasonably safe from flooding;
  - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
  - c. Constructed with materials resistant to flood damage;
  - d. Constructed by methods and practices that minimize flood damage;
  - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - f. Adequately drained to reduce exposure to flood hazards;
  - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
  - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1 – A30 *where base flood elevations and/or floodway limits have not been determined*, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
3. *Structures to be substantially improved* in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate;

4. *Non-residential structures to be substantially improved* shall:
  - a. Meet the standards in VII A 3; or,
  - b. Have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; A permit for flood proofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
5. *Fully enclosed areas below grade* on all sides (including below grade crawlspaces and basements) are prohibited.
6. *Fully enclosed areas that are above grade*, below the lowest floor, below BFE and subject to flooding, shall
  - a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
  - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. *Recreational vehicles* must be fully licensed and ready for highway use. A recreation vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
8. A *small accessory* structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in VII A 6 (above).
9. *Water supply systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems.
10. *Sanitary sewage systems* shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
11. *On-site waste disposal systems* shall be located to avoid impairment to them or contamination from them during flooding.
12. *The flood carrying and sediment transport capacity* within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
13. *Bridges and culverts*, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.

- 14 *Subdivisions and Planned Unit Developments must be accessible by dry land access outside the special flood hazard area.*
15. *Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.*

#### B. Floodway Areas

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
  - a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
  - b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

### VIII. Administration

#### A. Application Submission Requirements

1. Applications for development shall include:
  - a. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, any existing and proposed drainage, any proposed fill, and pre and post development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;
  - b. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin;

#### B. Referrals

1. Upon receipt of a complete application for the Development Review Board for a substantial improvement or new construction the ZA shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the

Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The DRB should consider comments from the NFIP Coordinator at ANR.

### C. Records

The Zoning Administrator shall properly file and maintain a record of:

1. All permits issued in areas covered by this bylaw;
2. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area. These Elevation Certificates shall be submitted prior to issuance of the Certificate of Occupancy and shall be submitted by a Professional Engineer, a Licensed Land Surveyor or an Architect authorized by law to certify elevation information;
3. All flood proofing and other certifications required under this regulation; and,
4. All decisions of the Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

### IX Certificate of Occupancy

In accordance with Chapter 117 §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure within Special Flood Hazard Area until a certificate of occupancy is issued therefore by the Zoning Administrator, stating that the proposed use of the structure or land conforms to the requirements of these bylaws. A certificate of occupancy is not required for structures that were built in compliance with the bylaws at the time of construction and have not been improved since the adoption of this bylaw. Within 14 days of the receipt of the application for a certificate of occupancy, the ZA shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the zoning permit and associated approvals. If the ZA fails to grant or deny the certificate of occupancy within 14 days of the submission of the application, the certificate shall be deemed issued on the 15<sup>th</sup> day. If a Certificate of Occupancy can not be issued, notice will be sent to the owner and copied to the lender.

### X. Enforcement and Penalties

A. This bylaw shall be enforced under the municipal zoning bylaw in accordance with 24 VSA § 1974a, § 4451, and § 4452. A copy of the notice of violation will be mailed the State NFIP Coordinator.

B. If any appeals have been resolved, but the violation remains, the ZA shall submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this bylaw. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

## XI. Definitions – These definitions only apply to this Appendix A of the Milton Zoning Regulations.

**“Accessory Structure”** means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

**“Area of Special Flood Hazard”** is synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

**“Base Flood”** means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).

**“Base Flood Elevation” (BFE)** is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

**“BFE”** see Base Flood Elevation

**“Common plan of development”** is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

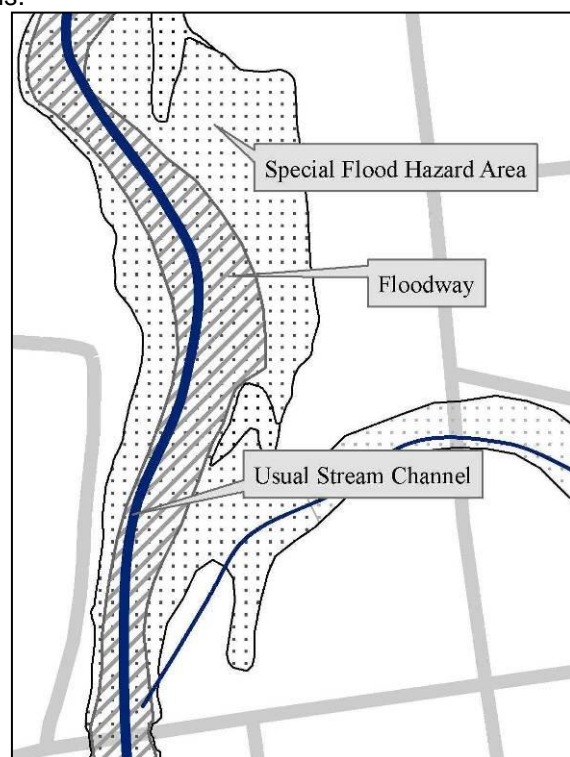
**“Critical facilities”** - include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

**“Development”** means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**“Fill”** means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

**“FIRM”** see Flood Insurance Rate Map

**“Flood”** means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other



body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**“Flood Insurance Rate Map” (FIRM)** means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

**“Flood Insurance Study”** means an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**“Floodplain or flood-prone area”** means any land area susceptible to being inundated by water from any source (see definition of “flood”).

**“Flood proofing”** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**“Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

**“Floodway, Regulatory in Town of Milton”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

**“Functionally dependent use”** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

**“Historic structure”** means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**“Letter of Map Amendment (LOMA)”** is a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

**“Lowest floor”** means the lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such

enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

**“Manufactured home (or Mobile home)”** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**“New construction”** for regulation under this bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

**“Non-residential”** includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

**“Recreational vehicle”** means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**“Special Flood Hazard Area”** is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: [msc.fema.gov](http://msc.fema.gov) Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

**“Start of construction”** for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

**“Structure”** means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

**“Substantial damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.



**“Substantial improvement”** means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, over 3 years or over the period of a common plan of development, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**“Violation”** means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

EFFECTIVE JUNE 6, 2011

**Town of Milton  
WIRELESS COMMUNICATION FACILITIES REGULATIONS  
APPENDIX B to the Town of Milton Zoning Regulations**

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**I. Purpose**

The purpose of this bylaw is to promote the public health, safety, welfare, and convenience of the residents of the Town of Milton, while accommodating the telecommunication needs of the Town’s residents. The goals of this regulation are to:

- (a) Create a clear review process to address the considerations specific to Wireless Telecommunication Facilities and to provide relevant review criteria.
- (b) Ensure that Wireless Telecommunication Facilities are designed to minimize adverse aesthetic impact by encouraging providers to utilize careful design, siting, screening, and camouflaging techniques; and
- (c) Minimize the total number of wireless telecommunication towers in the Town by encouraging the collocation of Wireless Telecommunication Facilities and the use of existing towers and structures for placement of facilities and equipment; and
- (d) Facilitate the ability of the providers of telecommunications services to provide such services to Town residents and businesses in a manner consistent with the community values and goals contained in the Comprehensive Plan.

**II. Authority**

Pursuant to 24 V.S.A. Section 4414(12), the Town of Milton is authorized to adopt regulations for review of wireless telecommunication facilities and ancillary improvements in a manner consistent with state or federal law.

**III. Permit Required**

Wireless Telecommunication Facilities may be allowed in any zoning district as conditional uses upon compliance with the Town of Milton Zoning Regulations. No installation or construction of, or significant addition or modification to, any Wireless Telecommunication Facility shall commence until Site Plan and Conditional Use approval has been granted by the Development Review Board and a permit has been issued by the Zoning Administrator. However, in accordance with 24 V.S.A. § 4412(9), a permit shall be issued for a Wireless Telecommunication Facility, without Development Review Board approval, if in the determination of the Telecommunications Officer it will impose no impact or merely a de minimis impact upon any criteria established in this Appendix or any other Section of the Zoning Regulations. Following a de minimis impact or no impact finding by the Telecommunications Officer’s, the Zoning Administrator shall issue a Zoning Permit.

This bylaw shall not apply to amateur radio, citizens band radio, AM or FM radio, or broadcast television service.

No permit shall be required for a Wireless Telecommunication Facility that has received a certificate of public good pursuant to 30 V.S.A. § 248a.

Pursuant to 24 V.S.A. § 4412 (8)(A), except to the extent bylaws protect historic landmarks and structures listed on the state or national register of historic places, no permit shall be required for placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest face of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than 12 feet above the roof of that portion of the building to which they are attached.

#### **IV. Approval Process**

- A. Wireless communication facilities may be permitted as conditional uses in all zoning districts. All proposed wireless communication facilities, except those exemptions identified under Section III, whether new (non-collocated) or collocated, must be reviewed by the Development Review Board as a conditional use under the requirements of this section and under the requirements of Section 500 of the Milton Zoning Regulations prior to the issuance of a zoning permit by the Zoning Administrator.
- B. Wireless communication facilities require Site Plan approval by the Development Review Board in accordance with Section 800 of Milton Zoning Regulations and 24 V.S.A. Section 4416. All proposed wireless communication facilities must be reviewed by the Development Review Board for Site Plan approval under the requirements of this section and under the requirements of Section 800 of the Milton Zoning Regulations prior to the issuance of a zoning permit by the Zoning Administrator.
- C. All wireless communication facilities are deemed to be a structure as the term structure is defined and used in the Milton Zoning Regulations. Any activity with respect to wireless communication facilities that constitutes Land Development as this term is defined and used in the Milton Zoning Regulations shall require a zoning permit in accordance the Milton Zoning Regulations.
- D. An applicant for a proposed facility must be a licensed wireless communication provider or must provide a copy of its executed contract to provide land or facilities to an existing provider to the Zoning Administrator at the time that an application is submitted. A permit shall not be granted for a wireless communication facility to be built on speculation. In addition, the record owner(s) of the property on which the facility is located must sign and join in the permit application, and the permit will run to and be binding on the owner, including successors and assigns.

#### **V. Review Standards**

Prior to granting such approval, the Development Review Board shall make affirmative findings for each of the following criteria in addition to the other applicable provisions set forth in this Appendix (Wireless Communication Facilities), Section 500 (Conditional Uses) and Section 800 (Site Plan Approval):

##### **A. Setbacks:**

Wireless communication facilities shall comply with the setback provisions of the zoning district in which the facility is located.

**B. Fall Zones:**

(1) Fall Zones for Existing and New Ground Mounted Facilities: To ensure public safety, the minimum distance of any ground mounted wireless service facility to any property line, habitable dwelling, business, right-of-way, institutional or public building shall be no less than 110% of the height of the facility, including antennas or vertical appurtenances. This setback shall be referred to as a fall zone. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan review.

(2) Fall Zones for Non-Ground Mounted Facilities: In the event that an existing structure such as a building, barn silo, church steeple, or utility pole is proposed as a mounting for a wireless communication facility, a fall zone setback shall not be required.

**C. Height Limitations:**

(1) Height Limitations for Ground Mounted Facilities/Towers: In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for a wireless communication facility, antennas and facility-related fixtures in all districts shall not exceed twenty (20) feet above the average height of the tree line within one hundred fifty (150) feet of the base of the facility. Notwithstanding the above, an additional height not to exceed fifty (50) feet may be approved upon a finding by the Development Review Board as part of the Conditional Use review, that the additional height is necessary in order to provide adequate coverage, or to accomplish collocation as outlined in Section V.K., and that the additional height will not have an adverse visual impact on the appearance of the area as per Section V.N.

(2) Height Increase for Existing Structures and Buildings: In the event that an existing structure (other than a wireless communication tower) is proposed as a mount for a wireless communication facility, the height of the structure shall not be increased by more than fifteen (15) feet above the highest point of the roof unless the facility is completely camouflaged; for example, a facility within a flag pole, steeple or chimney. The increase in the height of the structure shall be in scale and proportionality to the structure as originally configured. A provider may locate a wireless communication facility on a building that is legally non-conforming with respect to height, provided that the provisions of this section are met.

**D. Camouflaging Facilities:**

New ground mounted wireless communication facilities shall not be located within open areas or on or near the top of a ridge.

To the greatest extent feasible, all wireless communication facilities shall be designed to blend into the surrounding environment through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.

(1) Camouflage for Ground Mounted Facilities/Towers: New ground mounted wireless communication facilities shall be located up against or within an existing natural background such as trees or ledge. In addition the following landscaping and buffering shall be required around the perimeter of the tower and accessory structures:

(a) A row of trees a minimum of eight feet tall and a maximum of ten feet apart shall be planted around the perimeter of the fence;

(b) A continuous hedge at least thirty inches high at the time of planting, capable of growing to at least thirty-six inches in height within eighteen months, shall be planted in front of the tree line referenced above;

(c) All required landscaping shall be of the evergreen variety;

(d) All required landscaping shall be irrigated and properly maintained to ensure good health and vitality.

(e) The Development Review Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions and add other conditions to the permit regarding screening and landscaping.

(f) The trees within the buffer shall be maintained and shall not be removed or trimmed, unless necessary to ensure the health of the trees and vegetation or because they present a hazard to persons or property, or approval is granted by the Development Review Board.

(2) Camouflage for Facilities on Existing Buildings or Structures – Roof Mounts: When a wireless communication facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

(3) Camouflage for Facilities on Existing Buildings or Structures – Side Mounts: Wireless communication facilities that are side-mounted shall be camouflaged.

(4) Camouflaging for Equipment Shelters: Equipment shelters shall be camouflaged as described in D(1)(a-d) above. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be part of the original structure.

#### E. Lighting:

(1) Wireless Communication Facility Lighting: Wireless communication facilities shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the FAA or other federal or state authority for a particular wireless communication facility because of its height. If any lighting is required solely because of the height of the facility, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in the FAA applications. Additionally, the Development Review Board as part of Site Plan review may review the plan to determine if the lighting requirement can be eliminated by a reduced height or a change in location of the facility.

(2) Ground Lighting: Emergency, safety or security ground lighting may be utilized when there are people at the site. All ground lighting shall be directed downward towards the facility, shielded and away from neighboring properties.

#### F. Bulk, Height, and Glare:

All wireless communication facilities shall be designed in such a manner as to minimize the visual impact of height, mass, and guy wire supports for the intended use. Materials utilized for the exterior of any structure shall be of a type, style, and location so as to minimize glare and not result in an adverse visual impact on any public vantage point or from abutting properties.

#### G. Finish:

New wireless communication facilities shall have a galvanized finish unless otherwise required. The finish shall not be shiny or reflective. The Development Review Board as part of Conditional Use review may require the wireless communication facility to be painted or otherwise camouflaged to minimize the adverse visual impact.

#### H. Fencing:

The area around the wireless communication facility and communications equipment shall be completely fenced and gated for security to a height of eight (8) feet. Fencing shall be chosen as to minimize visual impact and be consistent with its intended safety purpose.

#### I. Signs:

A sign no greater than six (6) square feet stating the name of the facility's owner and a 24-hour emergency telephone number shall be posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs and the federal wireless communication facility registration plate, where applicable, may be posted on the fence or as required to meet federal requirements. No commercial signs or lettering shall be placed on the tower or facility. These emergency and warning signs may exceed those allowed under Section 830: Signs in the Milton Zoning Regulations, if necessary.

#### J. Noise:

The sustained (for a period of one hour) sound pressure level of any wireless telecommunications facility equipment shall not exceed the 70 dbA decibel level at the property line between the hours of 7:00 AM and 7:00 PM, and shall not exceed the 60 dbA decibel level at the property line between the hours of 7:00 PM and 7:00 AM. If the noise is impulsive (i.e. hammering), intermittent (i.e. machine sounds) or periodic (i.e. hums or screeches), the maximum sound pressure levels described above shall be reduced by 5 dbA. Furthermore, the applicant shall demonstrate that the sound pressure level of the proposed facility is as quiet as reasonably possible (i.e. if it is reasonably possible to have a dbA level less than cited above, the lower level shall be required).

#### K. Collocation:

New wireless communication facilities shall be designed structurally, electrically and in all respects to accommodate both the applicant's antenna, additional antennas, and the rearrangement of antennas when the overall permitted height allows. The owner of an approved facility shall allow other providers to collocate on the facility subject to reasonable terms and conditions (this includes communication equipment for municipal emergency services when the new wireless communication facility is proposed in an area where the municipal emergency services have a communication dead zone). Notwithstanding, there shall be no affirmative obligation on the owner to increase the height or width of the facility in order to accommodate the equipment or facilities of another user. A proposal to collocate additional antennas on an approved facility shall include a rebuttable presumption of de minimis impact and shall be permitted in accordance with Section III.

The applicant must demonstrate to the satisfaction of the Development Review Board that the new wireless communication facility cannot be accommodated on an existing or approved facility or structure due to one of the following reasons:

- (1) Structural or Spatial Capacity: The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved facility, as documented by a structural engineer licensed to practice in the State of Vermont. Additionally, the existing or approved wireless communication facility 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.

(2) Radio Frequency Interference: The proposed antennas and equipment, alone or together with existing facilities, equipment or antennas, would create radio frequency interference (RFI) in violation of federal standards or requirements as documented by a qualified radio frequency engineer.

(3) Radio Frequency Radiation: The proposed antennas and equipment, alone or together with existing facilities, equipment or antennas, would create radio frequency radiation (RFR) in violation of federal standards or requirements without unreasonable modification or mitigation measures as documented by a qualified radio frequency engineer.

(4) Existing Facilities: Existing wireless communication facilities cannot accommodate, or be reasonably modified to accommodate, the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified radio frequency engineer.

(5) Aesthetics: Aesthetic reasons make it unreasonable to locate the planned equipment upon an existing or approved wireless communication facility.

(6) Coverage: There are no existing or approved wireless communication facilities in the area in which coverage is sought.

(7) Other: Other specific unforeseen reasons make it unreasonable to locate the planned equipment upon an existing or approved wireless communication facility.

#### L. Access Roads:

If available, existing entrances and driveways shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual and environmental impact. To the extent practicable, new access roads shall follow the contour of the land and be located within existing forest or forest fringe areas and not in open fields.

#### M. Above Ground Utilities:

Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character of the area.

#### N. Determination of Visual Impact:

The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Development Review Board shall consider the following factors:

- (1) The results of the balloon test and photo simulations.
- (2) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
- (3) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
- (4) The duration and frequency with which the Facility will be viewed on a public highway or from public property.
- (5) The degree to which the Facility will be screened by existing vegetation, topography, or existing structures.

(6) Background features in the line of sight to the Facility that obscure or make the Facility more conspicuous.

(7) The distance of the Facility from the point of view and the proportion of the facility that is above the skyline.

**M. Non-Complying Wireless Communication Facility:**

Any changes to a non-complying wireless communication facility must be in conformity with these Regulations unless a variance from these Regulations is obtained from the Development Review Board.

**VI. Application Requirements**

In addition to the Site Plan application requirements of Section 800, an application shall include the following supplemental information:

- A. The names and addresses of the neighboring Planning Commission(s) and the Regional Planning Commission if the proposed facility might be visible from parcels in a neighboring community.
- B. The name(s) and address(es), fax/telephone numbers and e-mail address(es) of the persons to be contacted who are authorized to act in the event of an emergency regarding the structure or safety of the facility. Both the licensed wireless communication provider and the record owner(s) of the property on which the facility is located must sign and join in the Development Review Board and zoning permit applications.
- C. A vicinity map on the most recent United States Geological Survey Quadrangle map, showing the area within a three-mile radius of the proposed facility site, including the location of the facility and indicate the property lines of the proposed facility parcel and all easements or rights-of-way needed for access from a public right-of-way to the facility.
- D. Site plan of the entire development indicating all proposed improvements including landscaping, utility lines, guy wires, screening and roads. The site plan shall be at a scale no smaller than one (1) inch equals fifty (50) feet.
- E. Elevations showing all façades and indicating all exterior materials and colors of the tower, buildings and associated facilities.
- F. In the case of a ground mounted facility, the approximate average height of the existing vegetation within one-hundred fifty (150') feet of the base of the facility.
- G. A report prepared by qualified radio frequency engineer and a licensed structural engineer that:
  - (1) Describes the height, design, and elevation of the proposed facility.
  - (2) Documents the height above grade for all proposed mounting positions for antennas to be collocated on a wireless communications facility and the minimum separation distances between antennas.
  - (3) Describes the facility's proposed capacity, including the number, height, and type(s) of antennas that the applicant expects the facility to accommodate.



- (4) Describes potential changes and cost to those existing facilities or sites in their current state that would enable them to provide adequate coverage, and provide a map that describes coverage of the existing and proposed facilities.
  - (5) Describes existing coverage. In the case of a new wireless communication facility proposal, the applicant shall demonstrate to the satisfaction of the Development Review Board that the new wireless communication facility cannot be accommodated on an existing or approved facility or structure within a five (5) mile radius of the proposed site. The documentation shall include, for each facility site or proposed site within such radius, the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the Development Review Board or independent reviewer to verify that other locations will not be suitable.
  - (6) Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
  - (7) Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs, if applicable, as well as plans for additional development and coverage within Milton.
  - (8) Demonstrates that the tower and related equipment are structurally able.
  - (9) Demonstrates the wireless communication facility's compliance with the zoning district setback and the fall zone setback for facility and support structures.
  - (10) Provides assurance that at the proposed site, the applicant will establish and maintain compliance with all FCC rules and regulations particularly with respect to radio frequency radiation (RFR). The Town may hire independent engineers to perform evaluations of compliance with FCC regulations, standards and requirements on an annual basis at unannounced times.
  - (11) Includes other information required by the Development Review Board that is necessary to evaluate the request.
  - (12) For structural engineers, include an engineer's stamp and registration number. For radio frequency engineers, provide a list of credentials.
- H. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of these Regulations.
- I. For a wireless communication facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Zoning Administrator at the time an application is submitted).
- J. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.
- K. Construction sequence and time schedule for completion of each phase of the entire project.
- L. Information detailing the contents of the equipment shelters servicing the proposed wireless communication facility. The information shall include the type and quantity of oil, gasoline, batteries,

propane, natural gas, or any other fuel stored within the shelter. Information shall be submitted which demonstrates that any hazardous materials stored on site shall be housed to minimize the potential for any adverse impact an abutting property.

- M. Computer generated photo simulations of the proposed facility showing the facility from all public rights-of-way from which it may be visible. Each photo shall be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos shall show the color of the facility and the method of screening.
- N. Balloon Test: The applicant shall fly or raise a five (5) foot diameter balloon (painted black or dark blue) at the maximum height of the proposed facility at a location within fifty (50) horizontal feet of the center of the proposed facility. The applicant shall provide at least seven (7) days written notice to the Zoning Administrator of the date and time of the test. The sole purpose of this test is to identify the location and height of the proposed facility and not its visual impact.
- O. A written visual analysis with supporting illustrations demonstrating the visual impact of the proposed facility, including photographs of the balloon test and elevation views of the facility from each of the five (5) vantage points previously designated by the Zoning Administrator.
- P. A Plan for removal and restoration of the site following abandonment of the facility. This plan shall be binding upon the provider and the property owner, including their successors and assigns, and therefore construction of the facility will constitute consent from the owner, including successors and assigns, for the town or its agents to enter upon the property, if necessary, to complete removal of an abandoned facility.
- Q. A landscape easement on an adjoining site, if this is needed to satisfy the requirements of camouflaging ground mounted facilities as provided in Section V.D..
- R. Any additional information requested by the Development Review Board.
- S. Provision for Independent Consultants: Pursuant to 24 V.S.A. § 4440(d), the Town may contract with consultants (whose services shall be paid for by the applicant) to review application materials to assist the Development Review Board in the technical review of applications. Any or all final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

## **VII. Conditions**

The Development Review Board shall have the authority to impose conditions consistent with the purpose of this section and Sections 500 and 800 of the Zoning Regulations in approving a proposed plan for the development of a wireless communication facility. It shall be the obligation of the permittees and subsequent assigns to remain in compliance with all conditions.

- A. Maintenance: The owner of the facility shall maintain the wireless communication facility in good condition at all times. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.
- B. Radio Frequency Radiation Monitoring: Upon receiving a zoning permit, the permittee shall annually demonstrate compliance with all FCC standards and requirements regarding Radio Frequency Radiation (RFR) and provide the basis for representations to the Zoning Administrator. A survey by another permittee on the same site, since it will demonstrate compliance of all emitters, may be submitted provided there is annual demonstration of site compliance.
- C. Security for Removal: Prior to issuance of a zoning permit, the applicant shall provide a

performance bond, or similar form of surety acceptable to the Milton Selectboard to cover the full costs for removal (as described in Section IX.B.) and disposal of abandoned wireless communication facilities. The amount of the security shall be based upon the removal costs, plus a fifteen (15) percent contingency and updated on an annual basis. A cost estimate shall be provided by the applicant and certified by a civil engineer licensed in Vermont. This performance bond shall name the owner of the property, including successors and assigns, as a Principal, and should incorporate the terms of the permit by reference.

### **VIII. Amendments**

An amendment to a prior approved wireless communications facility may be considered by the Development Review Board and shall require Site Plan and Conditional Use Approval when any of the following are proposed:

- (A) An increase in the number of towers permitted on the site;
- (B) Addition of any external equipment or additional height not approved in the original application.

### **IX. Abandonment or Discontinuance and Removal**

- A. Notification of Abandonment or Discontinuance: At such time that an owner of the wireless communication facility plans to abandon or discontinue operation of said wireless communication facility, such owner shall notify the Town of Milton's Zoning Administrator by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that an owner fails to give such notice, the facility shall be considered abandoned upon discontinuation of operations for a continuous period of one hundred and eighty (180) days.
- B. Removal: Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the wireless communication facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - (1) Removal of antennas, facility mount, equipment shelters and security barriers from the subject property.
  - (2) Proper disposal of the waste materials from the site in accordance with local, state and federal solid waste disposal regulations.
  - (3) Restoring the location of the facility in accordance with the approved restoration plan.
- C. Failure to Remove: If the owner of the facility does not remove the facility (as described in Section IX.B.) then the Selectboard may, after holding a public hearing, with notice to the owner and abutters, consider issuing a declaration of abandonment. The owner of the wireless communication facility shall dismantle and remove the facility within ninety (90) days of receipt of a declaration of abandonment. If the abandoned facility is not removed at the end of this ninety (90) day period, the Town may execute the security to pay for this action. The record owner of the property, including successors and assigns, as a co-applicant on the permit for the facility constitutes consent for the town or its agents to enter upon the property, if necessary, to complete removal of an abandoned facility.

### **X. Consistency with Federal Law:**

These Regulations have been drafted to be consistent with Section 704 of the 1996 Telecommunications Act. Accordingly, the Regulations shall not prohibit or have the effect of prohibiting the provision of personal wireless communications services; shall not unreasonably discriminate among providers of functionally equivalent services; and shall not regulate personal wireless services based on the environmental effects of radio frequency emissions to the extent that these facilities comply with the Federal Communications Commission Regulations concerning such emissions.

## **XI. Definitions**

### **ADEQUATE CAPACITY (provider's capacity for wireless telephony)**

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

### **ADEQUATE COVERAGE**

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

### **ANTENNA**

A device for transmitting and/or receiving electromagnetic waves, which is attached to a wireless communication facility or other structure.

### **CAMOUFLAGED**

Wireless communication facilities that are disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

### **CHANNEL**

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

### **COLLOCATION**

Locating the wireless communications equipment of more than one provider on a single structure.

### **COMMUNICATION TOWER**

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

### **EQUIPMENT SHELTER**

A structure located at a base station designed principally to enclose equipment used in connection with wireless communication facility transmissions.

### **FAA**

The Federal Aviation Administration.

### **FALL ZONE**

The distance of any ground-mounted wireless service facility to any property line, dwelling, or similar, including antennas or other vertical appurtenances.

### **FCC**

The Federal Communications Commission.

**GROUND-MOUNTED**

Mounted on the ground.

**GUYED WIRELESS COMMUNICATION FACILITY**

A lattice wireless communication facility that is secured to the ground or other surface by diagonal cables for lateral support.

**MONOPOLE**

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

**MOUNT**

The structure or surface upon which antennas are mounted, including the following types of mounts (see "ground-mounted," "roof-mounted," "side-mounted" and "structure-mounted").

**PERMIT (wireless communication facility only)**

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

**PROVIDER**

An entity authorized and/or regulated by the FCC to provide wireless communications services to individuals or institutions.

**RADIOFREQUENCY (RF) ENGINEER**

An engineer specializing in electrical or microwave engineering, especially the study of radio frequency.

**RECEIVING ANTENNA**

An antenna used exclusively for receiving signals for television and radio broadcast.

**RFR (RADIOFREQUENCY RADIATION)**

The emissions from wireless communication facilities.

**RFI (RADIOFREQUENCY INTERFERENCE)**

The emissions from wireless communication facilities which can affect the normal operation of electronic devices, generally in a harmful way.

**ROOF-MOUNTED**

Mounted on the roof of the building.

**SIDE-MOUNTED**

Mounted on the side of the building.

**STRUCTURE-MOUNTED**

Mounted on a structure other than a building.

**STEALTH FACILITY**

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

**STRUCTURALLY ABLE**

The determination that a tower or structure is capable of carrying the load imposed by the proposed equipment under all reasonable predictable conditions as determined by a professional structural engineering analysis.

**TEMPORARY WIRELESS COMMUNICATION FACILITY**

Any tower, pole, antenna, etc., designed for use while a permitted permanent wireless facility is under construction or repair, or for a special event or conference.

**TOWER**

A vertical structure for an antenna(s) that provides wireless communication services.

**VANTAGE POINT**

A point located on a public roadway, waterway or path from which a proposed wireless communication facility will be visible.

**WIRELESS COMMUNICATION FACILITY**

Any tower or other support structure, including but not limited to, antennas intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic-spectrum-based transmissions/reception regulated by the FCC; the construction or improvement of a road, trail, building, or structure incidental to a communication facility. This definition does not include amateur radio facilities.

**WIRELESS TELECOMMUNICATION SERVICE**






















Any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, public or private radio dispatch service, or wireless internet service.

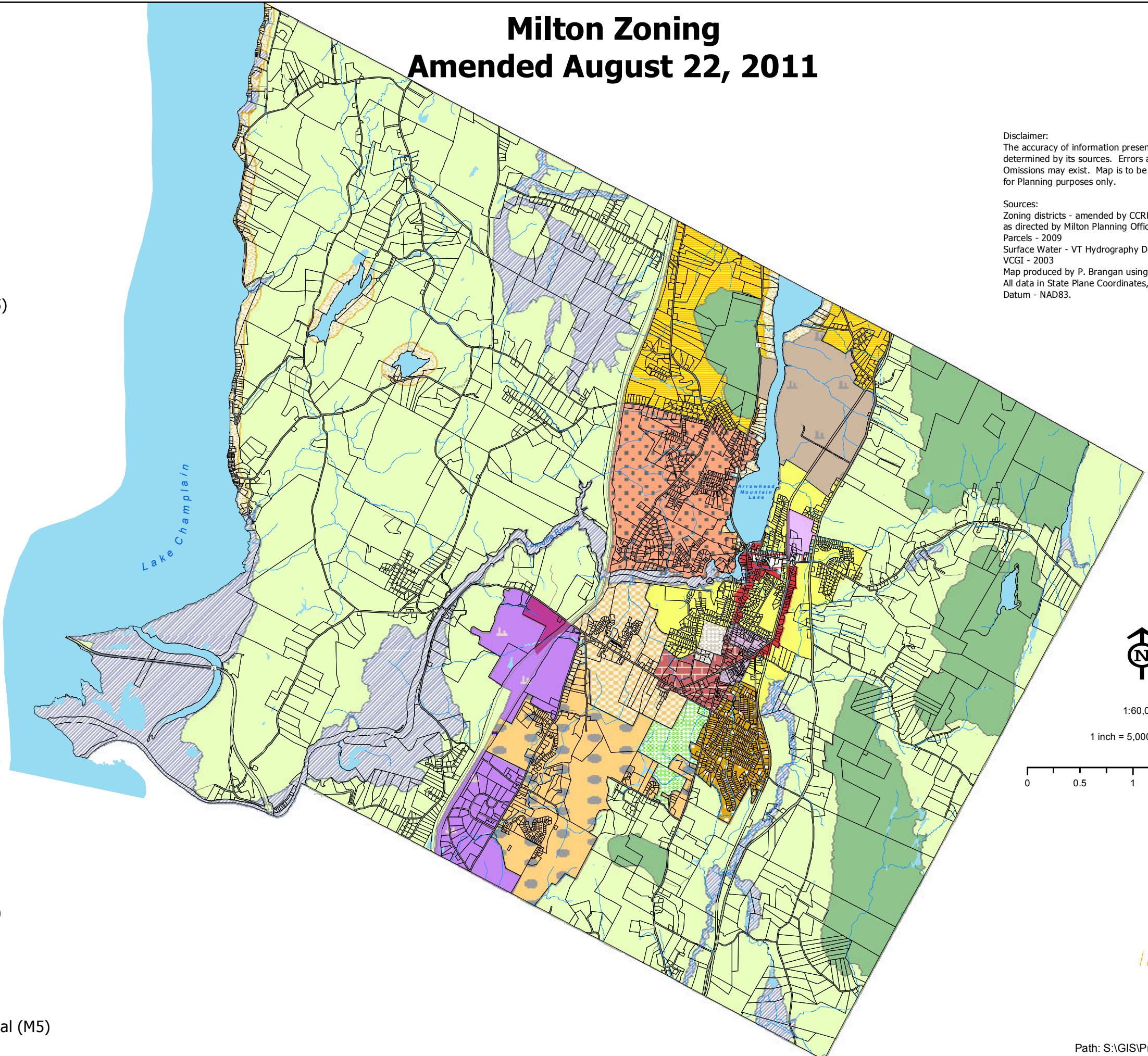
# Milton Zoning Amended August 22, 2011

Disclaimer:  
The accuracy of information presented is determined by its sources. Errors and Omissions may exist. Map is to be utilized for Planning purposes only.

Sources:  
Zoning districts - amended by CCRPC, 2011 as directed by Milton Planning Office.  
Parcels - 2009  
Surface Water - VT Hydrography Dataset - VCGI - 2003  
Map produced by P. Brangan using ArcGIS.  
All data in State Plane Coordinates, meters.  
Datum - NAD83.

**Legend**

-  Tax Parcel Boundary - 2009
- Zoning District**
-  Agricultural/Rural Residential (R5)
-  Beaverbrook Residential (R7)
-  Checkerberry (M4)
-  Low Density Residential (R3)
-  Medium Density Residential (R2)
-  Transitional Residential (R4)
-  Shoreland Residential (R6)
-  Flood Hazard (FH)
-  Forestry/Conservation (FC)
-  Light Industrial (I1)
-  General Industrial (I2)
-  Industrial Conservation (I3)
-  Downtown Business District (DB)
-  Main Street (M6)
-  Interstate Commercial (C1)
-  MCMP Center (M1)
-  MCMP Municipal/Recreation (M3)
-  MCMP West (M2)
-  Old Towne Residential (R1)
-  Old Towne Residential/Commercial (M5)



1:60,000

1 inch = 5,000 feet

