

**TOWN OF NEW HAVEN  
PUBLIC HEARING NOTICE  
AMENDMENTS TO ZONING BYLAWS AND SUBDIVISION REGULATIONS**

In accordance with 24 V.S.A. §4441 and §4444, the Town of New Haven will hold a public hearing on Monday, November 13, 2023, at 7:00 p.m. at the Town Offices, 78 North Street, New Haven. A remote option is available by logging onto:

<https://zoom.us/j/96189409121?pwd=R2hNVzFJM3M0T21Qa3pJYVRaRHptdz09>

Meeting ID: 961 8940 9121

Passcode: qw8Yry

The proposed updated and revised Zoning and Subdivision Regulations have been combined and redesigned to navigate and interpret more easily. These proposed Regulations include a step-by-step Introduction to the building application process; an Index, updated Zoning Map; a Zoning Districts Table showing density and dimensional standards applicable to land development in each of the Town's eight zoning districts; and a comprehensive Table of Allowed Uses that lists standards which apply to specified uses as allowed within one or more zoning districts. A hard copy of the proposed Zoning and Subdivision Regulations is available at the Town Offices, 78 North Street, and on the Town's website: <https://www.newhavenvt.com/>

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## PLANNING COMMISSION REPORTING FORM FOR PROPOSED REVISED AND UPDATED ZONING AND SUBDIVISION REGULATIONS

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

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

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

The proposed updated and revised Zoning and Subdivision Regulations, available for review on the Town’s website at [www.newhavenvt.com](http://www.newhavenvt.com), have been combined and redesigned to navigate and interpret more easily. These proposed Regulations include a step-by-step Introduction to the building application process; an Index; an updated Zoning Map; a Zoning Districts Table showing density and dimensional standards applicable to land development in each of the Town’s eight zoning districts; and a comprehensive Table of Allowed Uses that lists standards which apply to specified uses as allowed within one or more zoning districts

- 2. And shall include findings regarding how the proposal: Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*

The proposed Zoning and Subdivision Regulations incorporate statutory language, clarify the intent of existing land use districts, and conform with Goal #1 of the Town Plan: “To protect New Haven’s scenic, rural and agricultural character while supporting a diverse range of housing options and business opportunities.”

Consistent with the Town Plan, these proposed Regulations apply a flexible land use policy based on density of development by specifying a minimum required acreage figure for each development unit, rather than requiring all lots to meet a uniform minimum lot size.

In accordance with 24 V.S.A. §4282(10), these proposed Regulations provide incentives for residential development that meets the needs of New Haven’s population by increasing home ownership opportunities, ensuring that affordable housing units will remain affordable, and encouraging mixed-income development.

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

Proposed revisions do not impact any specific proposals for planned community facilities.

### **Please note:**

- The New Haven Planning Commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw (tentatively planned for November 13, 2023).
- At least 15 days prior to the first hearing, a copy of the proposed Zoning and Subdivision Regulations, and the written report, shall be delivered with proof of receipt to:
  1. The chairperson of the Planning Commission of each abutting municipality, or in the absence of any Planning Commission in an abutting municipality, to the clerk of that abutting municipality;
  2. The Executive Director of the Regional Planning Commission of the area in which the municipality is located; the Department of Economic, Housing and Community Development with the Agency of Commerce and Community Development.
- Following the public hearing, should any substantive changes be made, a second public hearing shall be warned prior to submitting the proposed Regulations to the Selectboard. If requested by the Selectboard, or supported by petition, the Planning Commission shall promptly submit an amendment not prepared by the Planning Commission, with changes only to correct technical deficiencies, together with any recommendations for Selectboard consideration at their public hearing.
- Simultaneously, with the submission, the Planning Commission shall file with the clerk of the municipality a copy of the proposed Regulations and the written report for public review.

# **TOWN OF NEW HAVEN VERMONT**

## **ZONING AND SUBDIVISION REGULATIONS**

**Zoning Bylaws Adopted March 1972**

**Subdivision Bylaws Adopted March 1980**

**Documents Combined into Zoning and Subdivision Regulations: \_\_\_\_\_**

## INTRODUCTION TO THESE REGULATIONS

These Regulations are the primary regulatory tool for implementing the vision of the Town Plan. They include New Haven's Zoning Regulations, Subdivision Regulations, and Flood Hazard Area Regulations.

### TWO GENERAL REVIEW PROCESSES:

- (1) An administrative review process for uses listed as "Permitted Uses" within the district are specifically given to the Zoning Administrator to review; or
- (2) A more involved review process for larger development proposals or commercial uses conducted by the Development Review Board to determine whether a permit application satisfies these Regulations.

### HOW TO APPLY FOR A PERMIT:

1. Applicants should review the Zoning Map to identify in which zoning district their parcel lies. Tax maps are available online at the 6 of New Haven's website (<https://www.newhavenvt.com/>) under "Land Records."
2. Once the zoning district has been determined, identify the types of uses or development allowed in that district by reviewing the **Table of Allowed Uses** (pp. 10-11) to determine whether the proposed use or development is permitted in the district, and if so, what procedure to follow in applying for the appropriate permit.
3. Next, applicants should determine the specific dimensional setbacks that govern where the use or development sits on the property [refer to **Zoning Districts Table** (p. 9)].
4. Lastly, applicants should review related references within these Regulations that apply to the proposed use.

**Article I** (p. 6): Administrative framework for these Regulations.

**Article II** (p. 7): **Zoning Map** (p. 8) that establishes the eight zoning districts throughout the town (RA-2, RA-5, RA-10, NC, HC, IN, FD, FHD); **Zoning Districts Table** that shows related dimensional and density standards (for example, minimum lot size, frontage, setback, and coverage requirements) and any other standards that are specific to each district; and **Table of Allowed Uses** (pp. 10-11) that lists use standards which apply only to specified uses as allowed within one or more zoning districts to include, for example, standards for home-based businesses, manufacturing, lodging, etc. Also included in **Article II** are provisions for **Density-Based Zoning** (pp. 11-12).

**Article III** (p. 13): Administration and Enforcement, including **Exemptions** (p. 13), or development not subject to these Regulations and therefore not requiring a permit.

**Article IV** (p. 21), **Article V** (p. 25), **Article VI** (p. 29), **Article VII** (p. 34): Required, General, Specific, and Performance-related Zoning Regulations that govern types of uses and development, or specified uses. Each may or may not apply to any given application.

**Article VIII** (p. 36): Application process for building within the Flood Hazard District (FHD).

**Article IX** (p. 44): Subdivision Review and Approval Process.

**Article X**: (p. 54) **Definitions** contained within these Regulations.

**Index**: (p. 64) An alphabetical list of Sections within Regulations.

**Appendix**: (p. 67) B-71 Standards for Residential-Commercial Drives.

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# ARTICLE I: ENACTMENT, INTENT, AND ORGANIZATION

## ***Section 100: ENACTMENT***

In accordance with the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117, hereinafter referred to as the "Act," there are hereby established Zoning Regulations for the Town of New Haven which are set forth in the text and map that constitute these Regulations. These Regulations shall be known and cited as the "Town of New Haven Zoning and Subdivision Regulations."

## ***Section 110: INTENT***

It is the intent these Regulations to provide for orderly community growth and to further the purposes established in the "Act," and to implement the vision and objectives of the New Haven Town Plan.

## ***Section 120: REPEAL OF FORMER ZONING BYLAWS***

The Zoning Bylaws and Zoning Map for the Town of New Haven in effect prior to the adoption of these Regulations and map are hereby repealed and replaced as of the effective date of these Zoning and Subdivision Regulations and Zoning Map.

## ***Section 130: INTERPRETATION***

In their interpretation and application, the provisions of these Regulations shall be held to be reasonable requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by these Regulations to repeal, annul or in any way impair any regulations or permits previously adopted or issued.

## ***Section 140: EFFECTIVE DATE***

These Regulations or amendments thereto shall take effect in accordance with the voting and other procedures contained in the Act.

## ***Section 150: SEVERABILITY***

If any part of these Regulations is adjudged to be unconstitutional or invalid, such decision shall not affect the validity of these Regulations as a whole, or any part thereof, other than the part so adjudicated.

## ***Section 160: AMENDMENTS***

These Regulations may be amended according to the requirements and procedures established in 24 V.S.A. § 4441 and 4442.

## ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

### ***Section 200: APPLICATION OF REGULATIONS***

Except as hereinafter provided, no land development shall occur unless in conformity with the Regulations. Any use not permitted by these Regulations shall be deemed prohibited unless otherwise enabled by state or federal statute.

In addition to the uses permitted in each district, certain uses are exempt from these Regulations, either by design of the Town of New Haven Planning Commission or by state statute. Exempt uses are addressed in Section 300 of these Regulations, and are listed on the Table of Allowed Uses.

### ***Section 210: ZONING DISTRICTS DESIGNATION***

#### **A. Designation of Zoning Districts**

The Town of New Haven is hereby divided into the following eight zoning districts, as shown on the Zoning Map:

- Rural Agricultural 2 (RA-2)
- Rural Agricultural 5 (RA-5)
- Rural Agricultural 10 (RA-10)
- Neighborhood Commercial (NC)
- Highway Commercial (HC)
- Industrial (IN)
- Forest (FD)
- Flood Hazard (FHD)

The density and dimensional standards applicable to land development in each zoning district are set forth in the **Zoning Districts Table**, and specific uses allowed in each district are listed in the **Table of Allowed Uses**.

### ***Section 220: ZONING MAP: ESTABLISHMENT OF BOUNDARIES***

The location and boundaries of zoning districts are established as shown on the Zoning Map recorded at the New Haven Town Clerk's office and available on the Town's website at <https://www.newhavenvt.com/>. A non-official reproduction is included herein for convenience only. The Zoning Map constitutes a part of these Regulations and/or all future amendments.

### ***Section 221: ZONING DISTRICT BOUNDARIES: INTERPRETATION***

If uncertainty exists with respect to the boundary of any zoning district on the Zoning Map, the Development Review Board shall determine the location of such boundary.

# Town of New Haven, VT

## Draft Zoning Districts Map

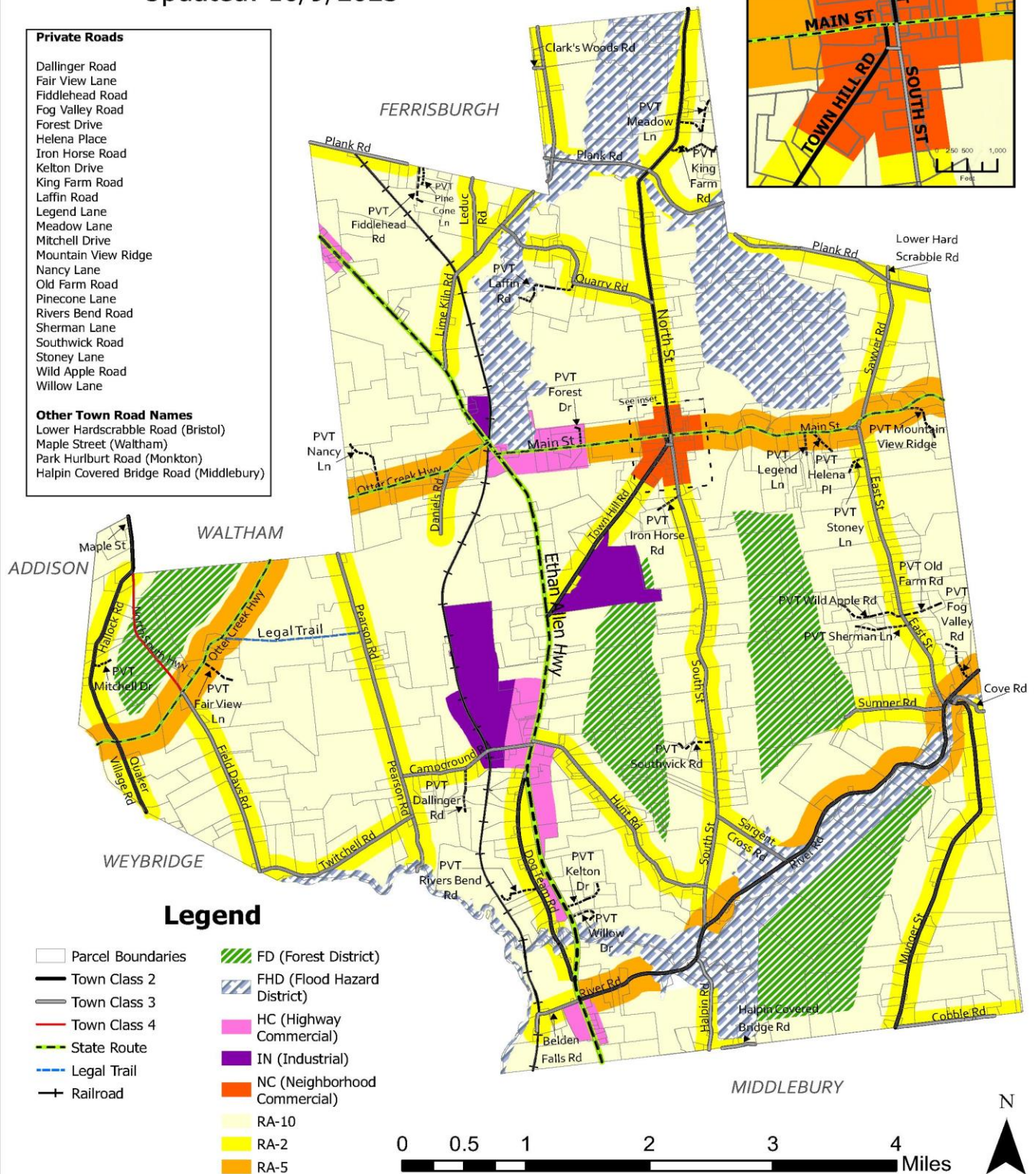
Updated: 10/9/2023

### Private Roads

Dallinger Road  
Fair View Lane  
Fiddlehead Road  
Fog Valley Road  
Forest Drive  
Helena Place  
Iron Horse Road  
Kelton Drive  
King Farm Road  
Laffin Road  
Legend Lane  
Meadow Lane  
Mitchell Drive  
Mountain View Ridge  
Nancy Lane  
Old Farm Road  
Pinecone Lane  
Rivers Bend Road  
Sherman Lane  
Southwick Road  
Stoney Lane  
Wild Apple Road  
Willow Lane

### Other Town Road Names

Lower Hardscrabble Road (Bristol)  
Maple Street (Waltham)  
Park Hurlburt Road (Monkton)  
Halpin Covered Bridge Road (Middlebury)



## ZONING DISTRICTS TABLE

| ZONING DISTRICT                                 | Minimum Acreage Per Development Unit              | Minimum Lot Frontage                            | Minimum Lot Depth                               | Minimum Front Yard Setback                      | Minimum Rear Yard Setback                     | Minimum Side Yard Setback                     | Maximum Structure Height | Objectives and Guidelines                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------|---------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|-----------------------------------------------|-----------------------------------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rural Agricultural/<br>2 Acres<br><b>[RA-2]</b> | 2 acres<br>-----<br>Non-Residential:<br>5 acres   | 300 ft.<br>-----<br>Non-Residential:<br>400 ft. | 200 ft.<br>-----<br>Non-Residential:<br>250 ft. | 100 ft.<br>-----<br>Non-Residential:<br>150 ft. | 25 ft.<br>-----<br>Non-Residential:<br>75 ft. | 25 ft.<br>-----<br>Non-Residential:<br>75 ft. | 35 ft.                   | RA-2 generally consists of all areas within 600 feet of either side of the centerline of all present roads of the Town, except U.S. Route 7, Vermont Route 17, River Road, and flood hazard areas. The official boundaries of this district are set forth on the Zoning Map. Residential and other compatible and complementary uses are permitted in this district.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Rural Agricultural/<br>5 Acres<br><b>[RA-5]</b> | 5 acres<br>-----<br>Non-Residential:<br>7.5 acres | 400 ft.<br>-----<br>Non-Residential:<br>600 ft. | 400 ft.<br>-----<br>Non-Residential:<br>500 ft. | 100 ft.<br>-----<br>Non-Residential:<br>150 ft. | 25 ft.<br>-----<br>Non-Residential:<br>75 ft. | 25 ft.<br>-----<br>Non-Residential:<br>75 ft. | 35 ft.                   | RA-5 generally consists of all areas within 800 feet of either side of the centerline of Vermont Route 17 and River Road, except for flood hazard areas. The official boundaries of this district are set forth on the Zoning Map. Residential and other compatible and complementary uses are permitted in this district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Rural Agricultural/ 10 Acres<br><b>[RA-10]</b>  | 10 acres<br>-----<br>Non-Residential: 10 acres    | 600 ft.<br>-----<br>Non-Residential:<br>600 ft. | 700 ft.<br>-----<br>Non-Residential:<br>700 ft. | 100 ft.<br>-----<br>Non-Residential:<br>150 ft. | 25 ft.<br>-----<br>Non-Residential:<br>75 ft. | 25 ft.<br>-----<br>Non-Residential:<br>75 ft. | 35 ft.                   | RA-10 consists of all areas of the Town not designated by any of the other districts herein. The land in this area is well suited for agricultural uses and other compatible uses such as open space, conservation, and certain forms of outdoor recreation. Any lot which does not have frontage on either a public road or public waters shall have a minimum yard requirement for all yards equal to the front yard setback distance for lots in that district.                                                                                                                                                                                                                                                                                                                            |
| Neighborhood Commercial<br><b>[NC]</b>          | 0.5 acres                                         | 100 ft.                                         | 200 ft.                                         | 50 ft.                                          | 25 ft.                                        | 15 ft.                                        | 35 ft.                   | The NC district is located in an area of the Town where there is a greater concentration of residents. The purpose of this district is to provide services to local residents. The NC district is located in New Haven Village as depicted on the Zoning Map.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Highway Commercial<br><b>[HC]</b>               | 1 acre                                            | 200 ft.                                         | 200 ft.                                         | 75 ft.                                          | *30 ft.,<br>except as<br>noted                | *20 ft.,<br>except as<br>noted                | 50 ft.                   | The HC district primarily provides an area to serve highway-oriented businesses and highway uses. Any lot which does not have frontage on either a public road or public waters shall have a minimum yard requirement for all yards equal to the front yard setback distance for lots in that district.<br>*In the case of any conditional use in the HC district located on a lot that abuts land in one of the Residential Agricultural Districts (RA-2, RA-5, RA-10), the rear and/or side yard setbacks, as applicable, are increased to 100 feet between the conditional use and the Rural Agricultural District. Must be at least 20 acres in area.                                                                                                                                     |
| Industrial District<br><b>[IN]</b>              | 1 acre                                            | 200 ft.                                         | 200 ft.                                         | 75 ft.                                          | *30 ft.,<br>except as<br>noted                | *20 ft.,<br>except as<br>noted                | 50 ft.                   | Areas in the IN district generally provide highway and rail uses for any existing and proposed industrial uses. The policy of this district is to provide an area for limited growth of new industry and continuation of present industrial uses. Any lot which does not have frontage on either a public road or public waters shall have a minimum yard requirement for all yards equal to the front yard setback distance for lots in that district.<br>*In the case of any conditional use in the IN district located on a lot that abuts land in one of the Agricultural Districts (RA-2, RA-5, RA-10), the rear and/or side yard setbacks, as applicable, are increased to 200 feet between the conditional use and the Rural Agricultural District. Must be at least 20 acres in area. |
| Forest District<br><b>[FD]</b>                  | 25 acres                                          | 200 ft.                                         | 200 ft.                                         | 100 ft.                                         | 100 ft.                                       | 100 ft.                                       | 35 ft.                   | The FD district is designated for conservation and does not fall into the category of Flood Hazard District. The only permitted uses in the FD district are forest and agricultural uses, with conditional uses as designated for residential development on a minimum of 25 acres.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## TABLE OF ALLOWED USES

The **Table of Allowed Uses** lists uses allowed in each district, and the categories into which each use falls. The categories of uses shown in the table are designated as follows:

- **(P) Permitted Use:** The use is allowed in the district as a matter of right, and the Zoning Administrator must issue a zoning permit for the listed use as long as all other provisions of these Regulations are satisfied.
- **P/S Permitted Uses with Site Plan Review:** A landowner must obtain site plan approval (and meet all other applicable provisions of these Regulations) before the Zoning Administrator may issue a zoning permit for the listed use.
- **(C) Conditional Uses:** A landowner must obtain conditional use approval from the Development Review Board (DRB) (and meet all other applicable provisions of these Regulations) before the Zoning Administrator may issue a zoning permit for the listed use.
- **(X) Prohibited Uses:** The listed use is not allowed in the district.
- **(E) Exempt Uses:** The use is exempt from the requirement for a zoning permit, and therefore allowed in the district without the need for a permit.

| USE                                | RA-2 | RA-5 | RA-10 | NC  | HC  | IN | FD | FHD |
|------------------------------------|------|------|-------|-----|-----|----|----|-----|
| Accessory Dwelling Unit            | P    | P    | P     | P   | P   | X  | C  | C   |
| Accessory Structure                | P    | P    | P     | P   | P   | P  | P  | C   |
| Adaptive Re-Use                    | X    | C    | C     | X   | C   | C  | X  | X   |
| Child Care Facility I              | P    | P    | P     | P   | P   | X  | X  | X   |
| Child Care Facility II             | C    | C    | C     | C   | C   | X  | X  | X   |
| Clinic                             | X    | X    | X     | P/S | P/S | X  | X  | X   |
| Club                               | X    | X    | X     | C   | P   | X  | X  | X   |
| Commuter Parking Lot               | X    | X    | X     | X   | C   | X  | X  | X   |
| Contractors' Yard                  | X    | X    | X     | X   | C   | C  | X  | X   |
| Dwelling-Multi-Family              | C    | C    | C     | C   | C   | X  | X  | X   |
| Dwelling – 1-Family                | P    | P    | P     | P   | C   | X  | C  | C   |
| Dwelling – 2-Family                | P    | P    | P     | P   | C   | X  | X  | C   |
| Dwelling – 3-Family                | P/S  | P/S  | P/S   | P/S | C   | X  | X  | X   |
| EV Charging Station (Level 1 or 2) | P    | P    | P     | P   | P   | P  | P  | P   |
| EV Charging Station (Level 3)      | X    | X    | X     | C   | C   | C  | X  | X   |
| Equipment Sales & Service          | X    | X    | X     | X   | C   | C  | X  | X   |
| Exempt Use or Structure            | E    | E    | E     | E   | E   | E  | E  | E   |
| Extraction of Soil/Sand/Gravel     | X    | X    | X     | X   | X   | C  | X  | X   |
| Gasoline or Service Station        | X    | X    | X     | X   | C   | C  | X  | X   |
| Gravel, Sand, or Soil Extraction   | X    | X    | X     | X   | X   | C  | X  | X   |
| Home Business                      | C    | C    | C     | C   | C   | X  | C  | C   |
| Home Occupation                    | P    | P    | P     | P   | P   | X  | C  | C   |
| Kennel                             | X    | X    | X     | X   | C   | X  | X  | X   |
| Lodging Establishment I            | C    | C    | C     | P/S | P/S | X  | X  | C   |
| Lodging Establishment II           | X    | X    | X     | C   | C   | X  | X  | X   |
| Manufacturing                      | X    | X    | X     | X   | X   | C  | X  | X   |
| Motor Vehicle Sales/Service        | X    | X    | X     | X   | C   | C  | X  | X   |
| Personal Service                   | P/S  | P/S  | P/S   | P   | P   | X  | X  | X   |

| USE                               | RA-2 | RA-5 | RA-10 | NC  | HC  | IN  | FD  | FHD |
|-----------------------------------|------|------|-------|-----|-----|-----|-----|-----|
| Office                            | P/S  | P/S  | P/S   | P/S | P/S | X   | X   | X   |
| Public Use Exceptions             | P/S  | P/S  | P/S   | P/S | P/S | P/S | P/S | P/S |
| Public Utility                    | X    | X    | X     | X   | X   | P   | X   | X   |
| Quarry                            | X    | X    | X     | X   | X   | C   | X   | X   |
| Recreation – Indoor               | C    | C    | C     | C   | C   | X   | X   | X   |
| Recreation – Outdoor              | C    | C    | C     | C   | C   | X   | C   | C   |
| Residential Care or Group Home I  | P/S  | P/S  | P/S   | P/S | P/S | X   | X   | X   |
| Residential Care or Group Home II | C    | C    | C     | C   | C   | X   | X   | X   |
| Restaurant                        | X    | X    | X     | P/S | P/S | X   | X   | X   |
| Retail Store I                    | X    | X    | X     | P/S | P/S | X   | X   | X   |
| Retail Store II                   | X    | X    | X     | X   | C   | X   | X   | X   |
| Service Area                      | X    | X    | X     | X   | X   | C   | X   | X   |
| Storage Facility                  | X    | X    | X     | X   | C   | C   | X   | X   |
| Trucking Terminal                 | X    | X    | X     | X   | C   | C   | X   | X   |
| Veterinary Clinic/Animal Hospital | X    | X    | X     | X   | X   | P   | X   | X   |
| Warehouse                         | X    | X    | X     | X   | C   | C   | X   | X   |

### ***Section 222: DENSITY-BASED ZONING – In General***

Consistent with the New Haven Town Plan, these Regulations apply a flexible land use policy based on density of development. To implement this policy, these Regulations specify a minimum required acreage figure for each development unit rather than requiring all lots to meet a uniform minimum lot size. The use of Planned Unit Development (PUD) is encouraged, to allow lots to be sized and configured in a way that satisfies the minimum acreage requirements while preserving open space and making the most appropriate and efficient use of land, in accordance with the goals of the Town Plan.

For example, in the RA-5 district, one development unit is allowed per five acres of land. The conventional, five-acre minimum zoning scheme would require that a 20-acre parcel be divided into four equal 5-acre lots, each of which could be developed with a single-family dwelling. Under density-based zoning, the same 20-acre parcel can be developed as a PUD which also allows four single-family dwellings on a 20-acre parcel, but allows the individual lots to be of varied size – to take advantage of the terrain, preserve open space, or make optimal use of water supply and septic capacity, for example. The building lots need not consume all of the land in the available parcel, as long as the remainder of the land is protected from development. Thus, a 20-acre lot could, for example, be divided into four one-acre building lots and leave a protected 16-acre lot that would not be eligible for development as a building lot, but which could continue in productive farm or forest use.

### ***Section 223: MINIMUM REQUIRED ACREAGE***

The density of development under these Regulations is regulated by assigning a minimum required acreage figure to each development unit, based on the zoning district in which the development unit is located. In the case of a stand-alone lot, the lot must have sufficient acreage to accommodate any development unit within that lot. In the case of a PUD, the entire PUD must have sufficient acreage to accommodate all development units within the PUD, but the individual lots within the PUD may be of varying sizes.

The Zoning Districts Table specifies the standard minimum required acreage per residential development unit in each zoning district. The standard minimum required acreage may be varied if the project qualifies for a density bonus under these regulations. A density bonus is expressed as a percentage to be deducted from the minimum required acreage. For example, the standard minimum required acreage in the RA-2 district is 2 acres per development unit. For an affordable housing development in that district to qualify for a 50% density bonus under Section 400 (Affordable Housing), the minimum required acreage would be reduced to 1 acre per development unit. Suitable density bonus districts include NC, RA-2, RA-5, RA-10, and HC.

If a lot includes land in more than one zoning district, the required acreage is based on the specific location of the development zone for the proposed development unit. For example, in the case of a lot that includes land in both the RA-2 and RA-10 districts, a development unit whose development zone is located within the RA-2 portion of the lot would require 2 acres, whereas a development unit whose development zone is located within the RA-10 portion of the lot would require 10 acres.

If the development zone for a proposed development unit will be located in more than one zoning district, the requirements of the district with the higher acreage requirement will apply. For example, a development unit whose development zone is located partially in the RA-2 district and partially in the RA-10 district would require 10 acres.

### ***Section 224: DENSITY-BASED ZONING REQUIREMENTS***

Except as otherwise provided by the other provisions of these Regulations, no permit shall be granted for any land development unless the applicant establishes that the completed development will comply with the minimum acreage requirements of Section 223. The following examples illustrate specific situations (assuming in each case that all other applicable requirements of these Regulations are met):

*Construction of development units as part of a PUD:* A PUD may be established and developed if the PUD as a whole contains the minimum required acreage for all development units authorized to be constructed within the PUD.

*PUD modifications:* A PUD may be modified by adding, removing, or reconfiguring lots, or by adding or removing development units, as long as the PUD as a whole will continue to contain the minimum required acreage for all development units authorized to be constructed within the PUD.

*Boundary line adjustment affecting developed lots:* The boundary of a lot with one or more existing development units may be adjusted as long as the minimum acreage requirements will continue to be met after the completion of the adjustment. For example, it would be permissible to adjust the boundary of a 3-acre lot with an existing development unit in the RA-2 district by removing one acre from the lot and adding it to a neighboring parcel.

*Creation of undeveloped lots:* Because these Regulations regulate development based on density rather than on minimum lot size, an undeveloped lot of any size can theoretically be created under these Regulations. However, a person considering a subdivision should take the density requirements into account in designing the proposed lots. For example, while the creation of a 5-acre lot in the RA-10 district would be permissible, such a lot would not be able to be developed on its own under these Regulations unless incorporated into a PUD that meets the maximum acreage requirements.

## ARTICLE III: ADMINISTRATION AND ENFORCEMENT

### **Section 300: EXEMPTIONS**

***In addition to the uses permitted in each district, certain uses are exempt from these Regulations, either by design of the Town of New Haven Planning Commission, or by state statute. No zoning permit is required for the following; however, minimum setback compliance is encouraged where possible.***

1. Any required agricultural or silvicultural practice as defined by the Secretary of Agriculture and/or the Commissioner of Forests, Parks and Recreation, including the erection of farm structures. However, in the erection of a farm structure, all setbacks as required by the Secretary of Agriculture, Food and Markets or the Commissioner of Forests Parks and Recreation as applicable, will be followed. A Notice of Intent to build, including a sketch showing the proposed building in relation to all property lines, is required to be delivered to the Zoning Administrator prior to the construction of any buildings under this Section.
2. Porches, terraces, decks, or steps which are not covered overhead and have less than 120 square feet in floor area.
3. At-grade landscaping and patios.
4. Doghouses, sheds, tree houses, carports or similar structures having less than 120 square feet in floor area, and less than 8 feet in height.
5. Vegetation used for screening.
6. Fences, hedges, or walls which do not interfere with corner visibility, and which are no more than 8 feet in height.
7. Driveways and accesses properly permitted by the Town or State, as well as normal driveway maintenance and repair.
8. Any sign erected by the Town or State for directional information, wheelchair accessibility, or traffic control purposes.
9. Normal repairs, including all interior renovations, window and door replacement, and siding repair or replacement.
10. Dormers that do not make a structure non-conforming or increase the non-conformity of an existing structure.
11. Garage sales, yard sales, home auctions, and similar activities not to exceed 3 consecutive days and 12 days per year.
12. The repair, reconstruction, or stabilization of a structure damaged by fire or other natural disaster to the extent of its prior footprint is exempt from zoning fees, but the applicant must complete a zoning application to inform the Town of the intended project. Reconstruction must begin within 2 years of the original damage.
13. Pursuant to the Fair Housing Law, accessibility structures necessary for reasonable access for an individual requiring accommodation. It is not required but it is encouraged that accessibility structures should comply with required setbacks.
14. One temporary structure not to exceed 300 square feet in an area erected for personal use, such as personal storage of motor vehicles or other materials if it is erected for no more than 8 consecutive months. Such structures remaining erected beyond this time period shall comply with all applicable requirements and approvals for the zoning district in which they are located.

15. Any public utility generating plant or transmission facility already regulated through state statute.
16. Mobile food vendors, commonly referred to as “Food Trucks,” that are located on a commercially approved lot and comply with all relevant state regulations; i.e., Department of Health and Department of Environmental Conservation rules.
17. Town-sanctioned events, including those held by the New Haven Volunteer Fire Department.
18. Retail space, events, and workshops that comply with Act 143: Accessory On-Farm Businesses (AOFB). Please contact the Zoning Administrator for more information.
19. Events hosted by residents of the property where the event is located, conducted no more than three times per year, and for which no compensation is received by the host.

### ***Section 310: ZONING ADMINISTRATOR***

The Zoning Administrator (ZA) shall be hereby nominated by the Planning Commission and appointed by the legislative body for a period of 3 years to administer the zoning regulations. Said officer shall literally enforce the provisions of these Regulations and in so doing shall inspect developments, maintain records, and perform all necessary tasks to carry out the provisions of these Regulations.

### ***Section 320: ZONING PERMIT REQUIREMENT***

No land development may commence without a zoning permit issued by the Zoning Administrator, except as provided for in Section 300 (Exemptions) of these Regulations.

### ***Section 321: FEES***

The Select Board shall establish all fees to be charged with respect to the administration of these Regulations, with the intention of covering the costs of administering the same.

### ***Section 322: BUILDING APPLICATION REQUIREMENTS***

Along with the permit fee and all other approvals required by these Regulations, an application for a zoning permit must contain:

1. a sketch or plan indicating the shape, size, height, and location in relation to all property lines and to street or road lines of any structure to be erected, altered, extended or moved, and of any structure already on the lot;
2. the existing and intended use of all such structures and the land;
3. a sketch or plan indicating the location of any proposed new boundary line on the lot;
4. such other information as may be required by the Zoning Administrator to ensure that the provisions of these Regulations are being followed; and
5. any application submitted for review shall include the signatures of all owners of record.

### ***Section 323: BUILDING APPLICATION REVIEW***

1. Within 30 days after submission of an application deemed complete by the Zoning Administrator, the Zoning Administrator shall act on the application for a permit.

2. In the event the Zoning Administrator fails to act on a complete application within 30 days, the permit shall be deemed approved on the 31<sup>st</sup> day.
3. If the application is denied or approved, the Zoning Administrator shall state such denial or approval and the reasons therefore in writing and shall, within 3 days of the action, mail notice of such action to the applicant at the address indicated on the application and a notice of any approval to the Town listsers.
4. In addition, if the zoning permit is approved, a copy of the approval shall be posted in at least one public place in Town, and the applicant must post a notice of permit on a form provided by the Town within view of the public right of way most nearly adjacent to the permitted property for 15 days following the approval.
5. All activities authorized by the issuance of a permit shall be completed within 2 years of its date of issue, or the zoning permit shall become invalid, and reapplication to complete any activities shall be required.
6. Within 30 days of the issuance of a permit, the Zoning Administrator shall deliver a copy of the permit to the Town Clerk for filing in the Town records. An additional copy shall be filed with all other land use permits in the Town offices.
7. The costs for recording will be the responsibility of the permittee.
8. Any permit issued shall not take effect until the time for an appeal has passed.
9. In the event an appeal is filed, the permit will not take effect until the appeal process has ended.

### ***Section 324: CERTIFICATE OF COMPLIANCE/OCCUPANCY***

Within seven days after notification that a building, structure, premises or part thereof is staked and about to have its footings poured, and again when the building or structure is completed or ready for occupancy or use, the Zoning Administrator shall make inspection of it. Upon determining that the structure conforms to the provisions of these Regulations, the Zoning Administrator shall issue a Certificate of Compliance. Upon completion of any work or change in use requiring a permit under these Regulations and prior to occupancy, the permittee shall request a Certificate of Compliance from the Zoning Administrator. It shall be unlawful to use or occupy, or permit the occupancy of any land or structure or part thereof until the Zoning Administrator issues a Certificate of Compliance stating that the proposed use of the structure or land complies with the requirements of these Regulations.

It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof, created, erected, converted, or wholly or partly altered or enlarged in its use or structure, unless a Certificate of Occupancy has been issued by the Zoning Administrator stating that the proposed use of the land or structure conforms to the provisions of these Regulations. In the case of a structure, the Zoning Administrator must inspect the site at the time the footings are in place and again when the structure is completed and deemed by the owner to be ready for occupancy before issuing a Certificate of Occupancy.

Exceptions to this requirement for a Certificate of Compliance include the following development and uses: cemeteries, dormers, uncovered porches and decks less than 120 square feet in size, septic systems, wheelchair ramps and other accessibility features, movement of fill material, and home businesses and occupations in existing buildings.

### ***Section 325: APPEALS OF DECISIONS OF ZONING ADMINISTRATOR***

Any interested person who meets the definition of “interested person” as defined in these Regulations may appeal a decision of the Zoning Administrator by filing an appeal with the clerk of the Development Review Board within 15 days of the date of that decision, and by delivering a copy of that appeal to the Zoning Administrator. The notice of appeal shall include the name and address of the appellant, a brief description of the property, the relief requested, a reference to the applicable bylaw or statute, and the reason for appeal.

The Development Review Board shall set a date and time for a public hearing to be held within 60 days of filing of the appeal. Public notice will be given, and the appellant shall receive a copy of that notice at least 15 days prior to the date of the hearing. All hearings conducted shall be open to the public and will be conducted under rules of evidence as identified by statute. Written decisions of the Board shall be rendered within 10 days of the close of an appeal hearing and shall include findings of fact.

### ***Section 326: PENALTIES/ENFORCEMENT***

Upon the observance of a violation of these regulations the Zoning Administrator may commence enforcement actions. No action may be taken until the offender has had at least 7 days’ notice of that action by certified mail. The notice will state the nature of the violation and explain that the offender has 7 days from receipt of the notice to cure the violation. The statute of limitations for violations of zoning bylaws are as stated in 24 V.S.A. § 4454.

### ***Section 327: DEVELOPMENT REVIEW BOARD***

There is hereby established a Development Review Board appointed by the Select Board, whose members may consist of the members of the Planning Commission. The Development Review Board shall hear appeals of a decision of the Zoning Administrator as identified in Section 325, conditional use determinations (Section 329), variance requests (Sections 330-331), subdivision application (Article IX), boundary line adjustments not decided by the Zoning Administrator (Section 910), referrals from the Zoning Administrator, and any other reviews as required by these Regulations.

### ***Section 328: PUBLIC NOTICE AND REVIEW PROCEDURE***

Applications for review must be submitted by delivering one copy of those materials required by the appropriate section of these Regulations governing the type of action requested to the Zoning Administrator at least 25 days prior to the regular meeting of the Development Review Board:

**Conditional Use:** Section 329

**Site Plan:** Section 334

**Appeal:** Section 325

**Subdivision:** Article IX

**Variance:** Sections 330-332

**Floodplain:** Article VIII

**Waiver:** Section 333

**Notice procedures:** All development review applications or appeals before the Development Review Board shall require notice for a warned public hearing as follows:

1. Publication of the date, place, and purpose of the hearing in a local newspaper.

2. Posting of the same information on the Town's website, and in at least 3 public places within Town, and a posting within view from the public right-of-way most nearly adjacent to the property for which the application is submitted.
3. Written notification to the applicant and to owners of all properties adjoining the property without regard to any public right-of-way. This notification shall include information as to where additional information may be obtained and that participation in the hearing is required as a prerequisite to making any further appeal. Hearings may be recessed to a date and time certain but once closed, a decision must be made within 45 days.

### ***Section 329: CONDITIONAL USE APPLICATION FOR APPROVAL***

A proposed use that is classified as a conditional use in the applicable zoning district shall only be permitted if the Development Review Board grants conditional use approval pursuant to this Section.

1. In making an application for conditional use, the applicant shall submit the following materials to the Zoning Administrator in paper or electronic form:
  - a. Property identification numbers of the property taken from the latest tax records, name, and address of the owner of record and those of adjoining lands, name and address of person or firm preparing the map, scale of map, north point, and date.
  - b. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions.
  - c. A site plan showing proposed structure locations and land use areas, streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks, landscaping plans, including site grading, landscape design and screening.
  - d. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
  - e. A description of energy utilization and conservation measures for each heated structure.
2. Upon confirmation that the application is complete and includes the required information, the Zoning Administrator will pass the complete application to the Development Review Board for review, and a hearing shall be scheduled and public notice given in accordance with Section 328.
3. The Board shall only grant conditional use approval if it determines that the proposed conditional use will comply with all applicable provisions of these Regulations and that it will not have an undue adverse effect on any of the following general criteria:
  - a. The capacity of existing or planned community facilities.
  - b. The character of the area affected as defined by the purpose of the zoning district in which the project is proposed.
  - c. Traffic on roads and highways in the vicinity.
  - d. Bylaws and ordinances then in effect.
  - e. Utilization of renewable energy structures.

4. In granting conditional use approval, the Development Review Board may impose such conditions on the proposed use as it deems necessary or appropriate to ensure compliance with the general criteria set forth in subsection 3 above and to otherwise implement the purposes of the Act and these Regulations. Such conditions may regulate, without limitation, the following matters:
  - a. Parking and loading facilities.
  - b. Landscaping, fencing, and screening.
  - c. Design, size, and location of structures and service areas.
  - d. Designation of open space or green space.
  - e. Size, location, and design of signs.
  - f. Lighting.
  - g. Hours of operation.
  - h. Number, timing, types of events to be permitted as part of the proposed use.
  - i. Noise, dust, smoke, odors, and similar matters.

### ***Section 330: VARIANCE***

The Development Review Board shall hear and make decisions regarding the issuance of a variance on appeal or referral from the Zoning Administrator. A variance shall be granted if all the following are found to exist and the finding is specified in its decision:

1. 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 property, and that unnecessary hardship is due to these conditions, and not to the circumstances or conditions generally created by the provisions of these Regulations in the neighborhood or district in which the property is located.
2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Regulations, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. Unnecessary hardship has not been created by the appellant.
4. 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 structures, or be detrimental to the public welfare.
5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from these Regulations and from the plan.

### ***Section 331: RENEWABLE ENERGY STRUCTURE VARIANCES***

When reviewing a variance request for a renewable energy structure, the Development Review Board may grant a variance if all of the following are found to exist and the finding is specified in its decision:

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these Regulations.

2. The hardship was not created by the appellant.
3. 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 structures, or be detrimental to the public welfare.
4. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from these Regulations and from the plan.

### ***Section 332: VARIANCE CONDITIONS***

Conditions may be attached to variances as may be considered necessary and appropriate to implement the purposes of the Town Plan.

### ***Section 333: WAIVERS***

The Development Review Board may approve a waiver of the dimensional standards of these regulations if it determines that the criteria set forth in this Section will be satisfied:

- A. Waiver Criteria:
  1. The waiver represents the minimum deviation from the dimensional requirement necessary to avoid unreasonable hardship to the applicant and to enable the reasonable use of the property.
  2. Granting of the waiver will not have an undue adverse effect on any of the following:
    - a. The public health, safety, and general welfare;
    - b. The character of the neighborhood;
    - c. Traffic patterns and circulation; and
    - d. Public health, safety, and utility services.
  3. Granting of the waiver will be consistent with the Town Plan and with the purposes of the zoning district in which the property is located.
  4. The need for a waiver was not created by an intentional action of the applicant.
- B. Waiver Application and Review Process:
  1. The DRB shall consider the testimony and input of abutters in deciding whether to grant the waiver.
  2. In granting a request for a waiver, the DRB may attach reasonable conditions designed to mitigate the impact of the waiver, including but not limited to screening, design modifications, and other conditions.

### ***Section 334: SITE PLAN REVIEW***

In conducting a Site Plan Review, the Development Review Board shall review the site plan map and supporting data as submitted, taking into consideration the following objectives, before approval with or without stated conditions, or disapproval, is given:

1. Harmonious relationship between proposed uses and existing adjacent uses.
2. Maximum safety of vehicular circulation between the site and the street network (refer to state standards).
3. Adequacy of circulations, parking and loading facilities, with particular attention to safety.
4. Adequacy of landscaping, screening, and setbacks in regard to achieving maximum compatibility and protection to adjacent property.

5. Freedom from flooding and ponding.
6. Adequacy of landscaping and screening with regard to the potential sharing of the most southerly facing wall and/or roof of adjacent buildings.
7. Protection of renewable energy structures.

### ***Section 335: SITE PLAN MAP AND DATA***

Site plan approval by the Development Review Board shall be required for all uses marked as “P/S” in the Table of Allowed Uses, as well as in all other situations where specified in these Regulations.

In conducting a Site Plan Review, the Development Review Board shall review the site plan map and supporting data as submitted, taking into consideration the following objectives, and shall either grant approval of the site plan (with or without conditions), or disapproval of the site plan:

1. Harmonious relationship between proposed uses and existing adjacent uses.
2. Maximum safety of vehicular circulation between the site and the street network.
3. Adequacy of circulation, parking and loading facilities, with particular attention to safety.
4. Adequacy of landscaping and screening in order to achieve reasonable compatibility with, and protection of, adjacent property.
5. Freedom from flooding and ponding.
6. Protection of renewable energy resources.

### ***Section 336: DECISIONS***

Decisions including a statement of the factual basis for making the decision and conclusions shall be sent via certified mail to the applicant, or appellant in cases of appeal. Copies shall also be sent to every person or body having been heard at the hearing, and to the Zoning Administrator and Town Clerk for inclusion in the public records.

### ***Section 337: APPEALS TO ENVIRONMENTAL COURT***

An interested person who has participated in a proceeding before the Development Review Board may appeal a decision rendered in that proceeding to the Environmental Court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. An appeal from a decision of the Development Review Board shall be taken in such a manner as the Supreme Court may by rule provide for appeals from State agencies governed by 3 V.S.A. §801-816. Notice of the appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the municipal clerk or the Zoning Administrator, if so designated, who shall supply a list of interested persons to the appellant within five (5) working days. Upon receipt of the list of the interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person, and, if one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

## ARTICLE IV: REQUIRED REGULATIONS

### **Section 400: AFFORDABLE HOUSING**

A. Intent: The provisions of this Section are intended to:

- 1) provide incentives for residential development that meets the needs of New Haven's population, including housing for low- and moderate-income individuals and families, in accordance with V.S.A. §4412(1), 4417(a)(2) and(d);
- 2) increase opportunities for home ownership and rental units;
- 3) allow for the development of a variety of affordable housing types including single- and two-family dwellings, and multi-family units;
- 4) ensure that affordable housing units will remain affordable and available into the future; and,
- 5) encourage mixed-income development.

B. General Standard: For a proposed development to qualify for the incentives in this Section, at least 20% of the residential units in the development must qualify as "affordable housing units" as defined in Article X.

C. Application Requirements:

Applications that seek to qualify for the incentives under this Section shall be reviewed by the Development Review Board, either in association with subdivision review where applicable (subdivisions and planned unit developments), or as a conditional use for development that does not require subdivision review (e.g., development, conversions, or adaptive re-uses on existing lots).

The applicant shall provide legal documentation to be approved by the Town's counsel, including, at minimum, the proposed deed restrictions or covenants that will ensure that the affordable housing units in the development will satisfy the requirements of this Section and the definition in Article X.

D. Density Bonus Incentives for Affordable Housing:

- 1) A development that meets the requirements of Section B above, and includes fewer than 5 affordable housing units will qualify for a 50% density bonus. As such, the standard minimum acreage requirement per development unit that would otherwise apply under Section 223 will be reduced by 50%.
- 2) A development that meets the requirements of Section B above, and includes between 5 and 9 affordable housing units will qualify for a 67% density bonus. As such, the standard minimum acreage requirement per development unit that would otherwise apply under Section 223 will be reduced by 67%.
- 3) A development unit that meets the requirements of Section B above, and includes 10 or more affordable housing units will qualify for a 75% density bonus. As such, the standard minimum acreage requirement per development unit that would otherwise apply under Section 223 will be reduced by 75%.

E. Modifications of Waivers for Affordable Housing:

The Development Review Board, upon written request of the applicant, may modify or

waive any of the following requirements for a project that meets the requirements of Section B, if it finds that the modification or waiver is necessary to improve the financial feasibility of the affordable housing component of the project, and that public health, safety, and welfare will not be jeopardized:

- 1) access requirements;
- 2) parking requirements;
- 3) subdivision standards, including but not limited to, applicable road standards;
- 4) minimum lot size, frontage, setback, coverage, and open space requirements, as allowed for planned unit developments.

### ***Section 410: ACCESSORY DWELLING UNITS***

Accessory Dwelling Units are a permitted use in all districts and must be in compliance with all of the following:

1. The property must have sufficient wastewater capacity to accommodate both the primary dwelling and the accessory dwelling unit.
2. The unit must not exceed 900 square feet or 30% of the total habitable floor area of the primary dwelling unit, whichever is greater.
3. All setback, lot coverage and parking conditions are met for the zone in which it is proposed.

### ***Section 420: ACCESSORY USES AND BUILDINGS***

1. An accessory use or building must conform to lot setback, lot coverage, and building height requirements for the district in which it is located.
2. An accessory use or building that is associated with a residential use shall be required to conform to the residential yard setback, lot coverage and building height requirements for the district in which it is located.

### ***Section 421: EXISTING SMALL LOTS***

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Regulations, March 7, 1972, 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 40 feet.

### ***Section 422: FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR PUBLIC WATERS***

No land development may be permitted on lots which do not meet the minimum frontage on public roads or public waters as stated in the Zoning Districts Table (page 9), or accessed by a right-of-way (ROW) of at least 20 feet in width, or with the approval of the Development Review Board. Additional width may be necessary to meet B-71 Standards for Residential-Commercial Drives (see Appendix).

### ***Section 423: HOME OCCUPATIONS***

Home Occupations as defined in Article X (Definitions) shall be a permitted use (requiring a zoning permit issued by the Zoning Administrator. A Home Occupation that does not conform to the following standards must be reviewed pursuant to Section 610 as a Home Business:

1. The business owner and operator shall reside on the property.
2. A Home Occupation shall not engage any non-resident workers who work on-site.
3. The Home Occupation use shall occupy the lesser of 50% or 1,000 square feet of the habitable space within the dwelling.
4. A Home Occupation shall not occupy any space outside the dwelling.
5. Within residential or agricultural zoning districts, exterior display of products, exterior storage of materials, or other exterior indications of the business use visible from the road or adjoining properties shall be prohibited, except for a sign as specified below.
6. A Home Occupation that will be visited by customers or clients shall provide adequate on-site parking. Parking shall not be located within front yard setbacks.
7. Motor vehicles registered to the Home Occupation owner and used for business purposes may be parked on residential property to the same extent as personal passenger vehicles. All other business vehicles and equipment shall be stored in a building or in a location fully screened from the road and adjoining parcels.
8. A Home Occupation shall not generate more than twice the amount of traffic typical of other residences in the area. A Home Occupation shall not generate truck traffic in excess of what is typical of other residences in the area.
9. The Home Occupation use shall not generate any off-site impacts (i.e., noise, light, odors, dust, smoke, hazardous waste, etc.) perceptible at the property line in excess of what is typical of residential uses in the area, and shall comply with the Design Standards in Article VII of these Regulations.
10. No activity associated with the Home Occupation shall be evident from off-site between the hours of 7 p.m. and 6 a.m.
11. Signage for a Home Occupation shall be in accordance with Article VII of these Regulations.
12. The Home Occupation shall comply with all applicable state regulations.
13. Any proposed change or expansion of the Home Occupation use beyond that authorized by the permit shall require conformance with these Regulations. The operation of the business shall cease if the owner and operator to whom the permit was issued no longer resides on the property. The approval for the business use shall not pass to subsequent owners or residents of the property.

### ***Section 424: NON-CONFORMING USES***

Any non-conforming use may be continued indefinitely, but:

1. Shall not be changed to another non-conforming use without approval by the Development Review Board after a hearing as per Section 329 of these Regulations, and then only to a use which, in the opinion of the Board, is of the same or of a more conforming nature.
2. Shall not be re-established if such use has been discontinued for a period of one year or has at any time been changed to, or replaced by, a conforming use. Intent to resume a non-

conforming use shall not confer the right to do so. If a non-conforming use has been discontinued due to fire or other natural disaster and has not been re-established within 2 years, the future use of the lot or structure shall be in conformance with the provisions of these Regulations.

With regard to non-conforming uses, the Development Review Board may make findings, hold hearings, and attach conditions as deemed necessary.

### ***Section 425: NON-CONFORMING STRUCTURES***

Any non-conforming structure may be continued indefinitely, but:

1. Shall not be restored, enlarged, or reconstructed after damage unless the construction of the non-conforming use is completed within 2 years of such damage, and approval is obtained from the Development Review Board. Otherwise, the non-conforming structure shall be deemed to have been discontinued. The Development Review Board may extend completion beyond 2 years at its discretion.
2. Shall not be moved, extended, or enlarged unless the Development Review Board shall find that such movement, extension, or enlargement:
  - a. does not increase the degree of non-conformity;
  - b. is consistent with the objectives and intent of the Town Plan, and;
  - c. is in conformity with the area, yard, coverage, height, and general regulations of the applicable district.

Nothing in this Section shall be deemed to prevent normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-conformity.

With regard to non-conforming structures, the Development Review Board may make findings, hold hearings, and attach conditions as deemed necessary.

### ***Section 426: PUBLIC USE EXCEPTIONS***

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

1. Public utility power generating plants and transmission lines or facilities regulated by state statute.
2. State- or community-owned and operated institutions and facilities.
3. Churches and other places of worship, convents, and parish houses.
4. Public and private hospitals.
5. State-certified solid waste management facilities.
6. Hazardous waste management facilities regulated by state statute.

## **ARTICLE V: GENERAL REGULATIONS**

### ***Section 500: LOTS IN MULTIPLE ZONING DISTRICTS***

If a lot includes land in more than one zoning district, any proposed use of that lot must qualify under the rules for the district in which the actual use will take place. For example, if a lot includes land in both the RA-2 and HC districts, a restaurant could be operated within the HC portion of the lot, but not within the RA-2 portion of the lot.

### ***Section 510: SETBACKS***

Each structure that is not exempt under Section 300 from the requirement of a zoning permit must be set back from the surrounding property lines in accordance with the setback requirements for the district in which the structure is located, unless the setback requirements are reduced via a waiver granted under Section 333, or pursuant to another applicable provision of these Regulations.

### ***Section 520: ABANDONMENT OF STRUCTURES***

Within 9 months after a permanent or temporary structure has been destroyed, demolished, or abandoned, all structural materials shall be removed from the site, or stored in an appropriate manner. The site thus remaining shall be covered over or filled to the normal grade and seeded to prevent erosion by the owner. (Refer to “Exemptions” Section 300 #12)

### ***Section 521: TEMPORARY OR PORTABLE USES AND STRUCTURES DURING CONSTRUCTION***

The Zoning Administrator may issue permits for temporary uses and structures as follows:

1. Structures or uses other than dwellings, whether they are conforming or non-conforming to these Regulations, which are incidental to construction projects for a period not exceeding one year provided such permits are conditioned upon agreement by the owner to remove the structure or cease the use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.
2. A mobile home, trailer, camper, or other temporary structure may be located on a construction site and used as a residence where necessary or incidental to permitted construction on that property. Use of the temporary structure as a residence shall not continue beyond the expiration of the zoning permit for the construction occurring on the property. The temporary structure shall be removed from the property or converted to a permitted accessory structure.

### ***Section 522: STORAGE STRUCTURES***

Except as exempted in Section 300, a zoning permit shall be required for all accessory structures including, but not limited to, storage containers, truck bodies on wheels, storage sheds, storage units, storage trailers, vehicles used primarily for storage, pole barns, and similar

structures whether or not they have permanent foundations or footings. Such structures shall be deemed the same as any other structure and shall be subject to all applicable provisions of these Regulations. The Zoning Administrator shall not issue a zoning permit for storage trailers, storage containers, van trailers, vehicles or parts of vehicles, or shipping containers used for storage that are visible from public roads or other property until the applicant has received conditional use approval from the Development Review Board.

### ***Section 523: FILLING OF LAND***

In any district, a zoning permit is required for the depositing of rock, concrete, stone, gravel, sand, cinders, stumps, and soil in excess of 50 cubic yards used for the filling of land, except during new construction. The Zoning Administrator may issue a permit provided the applicant demonstrates that the activity will not significantly alter existing drainage patterns, cause soil erosion, or result in any hazard or expense to the community.

### ***Section 524: EXTRACTION OF SOIL, SAND, OR GRAVEL***

The removal of sand or gravel for sale, except when incidental to construction of a building on the same premises, shall be a conditional use subject to Section 329. The following provisions shall apply:

1. Before approval of any new sand or gravel operation, or extension thereof, a performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations, the abandoned site will be left in a safe, attractive, and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall cover the cost of implementing the plan.
2. The removal of all material shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted unless provision is made to refill such pit.
3. The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Zoning Administrator.
4. All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property. All provisions to control natural drainage water shall meet with the approval of the Zoning Administrator.
5. No excavation, blasting or stock piling of materials shall be located within 200 feet of any street or other property line.
6. No power-activated sorting machinery or equipment shall be located within 300 feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
7. All excavation slopes in excess of one to two shall be adequately fenced as determined

- by the Zoning Administrator.
8. Extension of an existing non-conforming operation shall not be permitted.
  9. Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project, shall be prohibited.
  10. The Development Review Board may attach any general conditions as it may find necessary for the safety and general welfare of the public.

### ***Section 525: GRADING***

No grading, cutting, or filling shall be carried out in any district which leaves the slope in excess of one to two (the hillside drops 1 foot for every 2 horizontal feet).

### ***Section 526: CORNER LOT EXCEPTIONS***

Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front yards and side yards.

### ***Section 527: ADAPTIVE RE-USE***

Adaptive re-use is intended to encourage the continued viability, re-use, restoration, and rehabilitation of historically, culturally, or architecturally significant structures within the Town of New Haven. Adaptive re-use proposes a change in use that is not normally permitted under administrative review (ex.: conversion of an historic home to a restaurant in a rural agricultural district or light manufacturing). Adaptive re-use may be allowed as a conditional use in any zoning district except the Flood Hazard District.

Structures eligible for adaptive re-use are limited to those which:

- a. Are no less than 25 years old; and
- b. Have historical, cultural, or architectural significance to the Town, as determined by the Development Review Board. The Board may decide the eligibility of a particular structure for adaptive re-use in consultation with the Vermont Division of Historic Preservation or a qualified architect or architectural historian at the expense of the applicant. A proposed business may be owned by a person other than the property owner.

### ***Section 528: PUBLIC UTILITY SUBSTATIONS***

Public utility substations and similar utility structures, where permitted, shall comply with the following:

1. The facility shall be surrounded by a fence which is set back from the property lines in conformance with the district regulations for front, side, and rear yards.
2. A landscaped area at least 25 feet wide shall be maintained in front, rear, and side yards.

### ***Section 529: HAZARDOUS MATERIAL***

The storage of hazardous material in tanks above ground with unit capacity greater than 550 gallons shall be prohibited, unless such tanks up to and including 10,000-gallon capacity are

placed not less than 200 feet from all property lines. All tanks having a capacity greater than 550 gallons shall be properly retained with dikes having a capacity not less than one-and-one-half times the capacity of the surrounding tanks.

### ***Section 530: CAMPERS***

It shall be unlawful for any person to park a camper except:

1. in an approved campground;
2. in an approved camper sales lot; or
3. the owner of a camper may park it on his/her own property provided it is not hooked up to water or sewer utilities.
4. Invitees may also park campers in the same manner as required of any owner on his/her own property for a period of time not to exceed 10 days.
5. As authorized by Section 521.

### ***Section 531: ROADSIDE AGRICULTURAL STANDS***

Temporary roadside stands for the sale of agricultural products raised locally may be erected provided that:

1. no stand shall be closer than 20 feet to any lot line;
2. off-street parking space shall be provided for at least 2 motor vehicles; and
3. access to or egress from any stand shall not create a traffic hazard.

## ARTICLE VI: CONDITIONS ATTACHED TO SPECIFIC USES

Certain uses have the potential for greater impact on surrounding properties than others. These Regulations require that the specific uses listed within this Section meet the following additional requirements governing their application procedure, operations, use or closure.

### ***Section 600: GASOLINE OR MOTOR VEHICLE SERVICE STATIONS***

Gasoline or motor vehicle service stations shall comply with the following:

1. A gasoline or motor vehicle service station lot shall not be located within 300 feet of any lot occupied by a school, hospital, library, or religious institution.
2. Lot size shall be a minimum of one acre.
3. Lot frontage shall be at least 200 feet.
4. Lot depth shall be at least 200 feet.
5. Pumps, lubricating and other service devices shall be located at least 50 feet from the street line and side and rear lot lines.
6. All fuel and oil shall be stored at least 35 feet from any property line.
7. All automobile parts and dismantled vehicles are to be stored within a building unless screened from public view.
8. No signs shall extend beyond the pumps, nor exceed 15 feet in height.
9. There shall be no more than two access driveways from the street. The maximum width of each access driveway shall be 40 feet.
10. A suitably curbed landscaped area shall be maintained at least 5 feet in depth along all street frontage not used as driveway.

### ***Section 610: HOME BUSINESSES***

A zoning permit for a Home Business as defined in Article X (Definitions) can be issued only after approval of the DRB following public notice and public hearing (pursuant to Section 328). The DRB may condition any approval as deemed necessary to prevent the Home Business from causing an undue adverse effect upon the character of the area and to protect quality of life for the area's residents based on the standards below:

1. The Home Business owner and operator shall reside on the property.
2. A Home Business shall not engage more than 2 full-time equivalent non-resident workers who work on-site.
3. The Home Business use shall occupy the lesser of 50% or 1,000 square feet of the habitable space within the dwelling.
4. A Home Business may also occupy up to 1,200 square feet of space in an accessory building.
5. The DRB may allow a Home Business to occupy a larger area and/or have more employees if the applicant is proposing an adaptive re-use of a historic structure (Section 526) in accordance with all applicable requirements of these Regulations.

6. Within residential or agricultural zoning districts, exterior display of products, exterior storage of materials, or other exterior indications of the business use visible from the road or adjoining properties shall be prohibited, except for a sign as specified below.
7. A Home Business that will be visited by customers or clients, or that has non-resident workers, shall provide adequate on-site parking. Parking shall not be located within front yard setbacks.
8. Motor vehicles registered to the Home Business owner and used for business purposes may be parked on residential property to the same extent as personal passenger vehicles. All other business vehicles and equipment shall be stored in a building or in a location fully screened from the road and adjoining parcels.
9. The DRB may establish a limit on the amount of customer and/or truck traffic a Home Business may generate as deemed necessary to protect the character of the area and quality of life for nearby residents.
10. The Home Business use shall not generate any off-site impacts (i.e., noise, light, odors, dust, smoke, hazardous waste, etc.) perceptible at the property line in excess of what is typical of residential uses in the area, and shall comply with the Design standards in Article VII of these Regulations.
11. No activity associated with the Home Business shall be evident from off-site between the hours of 7 p.m. and 6 a.m.
12. Signage for a Home Business shall be in accordance with Article VII of these Regulations.
13. The Home Business shall comply with all applicable state regulations.
14. Any proposed change or expansion of the Home Business use beyond that authorized by the permit shall require conformance with these Regulations. The operation of the business shall cease if the owner and operator to whom the permit was issued no longer resides on the property. The approval for the business use shall not pass to subsequent owners or residents of the property.

### ***Section 620: ELECTRIC VEHICLE (EV) CHARGING STATIONS***

1. Electric vehicle charging station means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles. To qualify as an electric vehicle charging station, the charging station must meet or exceed any applicable standards, codes, and regulations.
2. Electric vehicle (EV) means any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.
3. Hybrid electric vehicle means any vehicle that operates partially on electrical energy from an off-board source, which is stored on-board for motive purpose. The common term for such a vehicle is "plug-in hybrid vehicle."
4. Charging levels means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. Levels 1, 2, and 3 are the most common EV charging levels, and include the following specifications:
  - a. Level 1 is considered slow charging.
  - b. Level 2 is considered medium charging.
  - c. Level 3 is considered fast charging.

5. Electric vehicle parking space means any marked parking space that identifies the use to be exclusively for an electric vehicle or a hybrid vehicle.
  - a. Electric vehicle charging station(s) with a Level 1 or 2 charging level shall be permitted in the following zones: Industrial, Neighborhood Commercial, Highway Commercial, RA-2, RA-5, and in RA-10.
  - b. Electric vehicle charging station(s) with a Level 3 or greater charging level must be installed in a parking lot at a commercial or municipal destination, or located at a vehicle service station.
6. Process for review for electric vehicle charging stations:
7. New residential construction: If associated with new residential construction, installation of a Level 1 or 2 battery charging station shall be processed in association with the underlying permit(s).
  - a. Retrofitting single family or multi-family residential: the installation must be performed by a licensed electrician.
  - b. New commercial, industrial, municipal construction: If associated with new construction, installation of a battery charging station shall be processed in association with the underlying permit(s).
  - c. Retrofitting a commercial industrial, or municipal site with an EV charging station: If retrofitting an existing site for a battery charging station(s), an electric permit and review of a site plan by the Zoning Administrator to confirm the proposed locations will be required. Additional permits may be required based upon the location of the proposed station(s).
8. Design Criteria for electric vehicle charging stations:
  - a. All charging stations must be installed according to existing state and local fire codes. Vermont's codes are found at the Vermont Department of Public Safety Division of Fire Safety.
  - b. Exposure to the elements should be minimized when possible. Charging equipment is engineered to be safe in wet environments, but areas prone to flooding or standing water should be avoided.
  - c. No charging stations shall be installed in any government right of way.
  - d. No public charging station shall be placed so as to interfere with building accessibility.
9. Signage: Each public charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operation shall be included if time limits or tow away provisions are to be enforced by the owner. Information identifying voltage and amperage levels or safety information must be posted.
10. Maintenance: Public charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning, or other problems are encountered.

## ***Section 621: PLANNED UNIT DEVELOPMENT***

In accordance with the provisions set forth in the Act, and in those districts designated in Article II of these Regulations, the modification of the district regulations by the Development Review Board is permitted simultaneously with approval of a site plan under Article IX: Subdivision Application and Approval Procedure.

1. Purpose: The purpose of the Planned Unit Development (PUD) provisions is to encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of open land, to provide for a mixture of uses and a variety of housing types at different densities, and to provide for the development of existing lots which because of physical, topographic or geological conditions could not otherwise be developed.
2. Application Procedure: Application procedures and submission requirements shall be those that are required in Article III.
3. Public Hearing: Hearing requirements and deadlines for action by the Development Review Board shall be those that are required in Article III.
4. General Standards for Review: The following general standards shall be met in order for the Development Review Board to approve the application:
  - a. The PUD is consistent with the municipal plan.
  - b. The overall density of the project does not exceed the number of dwelling units which could be permitted in the Development Review Board's judgment, if the land (excluding the area within the boundaries of any proposed road) were subdivided into lots in accordance with the district regulations.
  - c. Dwelling units may be of varied types, including one-family, two-family or multi-family construction.
  - d. The PUD is an effective and unified treatment of the development possibilities of the project site, and the development plan makes appropriate provision for preservation of streams, and stream banks, steep slopes, wet areas, and unique natural and man-made features.
  - e. The development plan is proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.
  - f. Where possible, buildings are encouraged to be sited so as to take advantage of southeast, south, or southwest orientation. No building in the development shall cast shadows which will preclude the proposed or potential use of solar energy collectors which are located upon and/or within the most southerly facing wall or roof of any other dwelling unit within the development, except where topographical conditions make compliance unreasonable.
  - g. Any modification of the Zoning Regulations approved under this Section shall be specifically set forth in terms of standards and criteria for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be noted on or appended to the application.

5. Specific Standards for Review: The following specific standards shall be met in order for the Development Review Board to approve the application:
  - a. District regulations on height and spacing between main buildings shall be met unless otherwise waived by the Development Review Board.
  - b. To ensure adequate privacy for existing or proposed uses adjacent to the PUD, structures on the perimeter of the PUD shall be set back 50 feet and screening may be required.
  - c. Adequate water supply and sewage disposal facilities shall be provided.
6. Open Space: If the PUD results in lands available for parks, recreation, agricultural uses, open space or other municipal purposes, the Development Review Board, as a condition of its approval, may establish such conditions as to the ownership, use and maintenance as it deems necessary to assure the preservation of such lands for their intended purposes.

## **ARTICLE VII: DESIGN & PERFORMANCE STANDARDS**

### ***Section 700: GENERAL PRINCIPLES***

No land or building in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose.

### ***Section 710: SPECIFIC STANDARDS***

In all districts uses are not permitted which exceed any of the following standards measured at the individual property line:

1. Emit noise in excess of 70 decibels.
2. Emit dust or dirt which is considered offensive.
3. Emit any smoke, in excess of Ringlemann Chart No. 2.
4. Emit any noxious gases which endanger the health, comfort, safety, or welfare of any person, or which tend to cause injury or damage to property, business, or vegetation.
5. Cause, as a result of normal operations, a vibration which creates a peak particle velocity of .002 inches per second.
6. Lighting that creates glare which could impair the vision of a driver of any vehicle.
7. Cause a fire, explosion, or safety hazard.
8. Cause harmful wastes to be discharged into the sewer system, streams, or other bodies of water. Effluent disposal shall comply with the local and state sewer health standards.

### ***Section 720: PARKING***

All non-residential parking lots shall be screened or hidden from view of persons in abutting residential districts and shall be set back at least 50 feet, or the yard minimum of the district in which it is located, whichever is greater.

### ***Section 721: HEIGHT RESTRICTIONS***

Unless otherwise approved by the Development Review Board, all new structures within the Town of New Haven shall be limited to 35 feet in height from the average grade.

### ***Section 722: SIGNS***

No signs shall be permitted in any district except as specifically permitted herein as follows:

- a. One professional or home occupation sign, not exceeding 4 square feet.
- b. One temporary real estate sign, not exceeding 6 square feet.
- c. Directional or informational sign, not exceeding 4 square feet.
- d. Signs necessary for public safety or welfare.
- e. One directory sign not exceeding 10 square feet.
- f. Total signage on a property shall not exceed 150 square feet.

- g. No signs mounted on a building shall exceed the highest point of the building.
- h. Roof signs shall not be permitted in any zoning district.
- i. All flashing signs are prohibited.
- j. Every projecting sign shall:
  - 1. not extend beyond the street line;
  - 2. not extend more than 2 feet from the building wall;
  - 3. not be less than 10 feet above the surface of a public walkway area;
  - 4. not exceed 32 square feet.
- k. Every temporary and permanent sign located on the ground shall:
  - 1. not exceed 20 feet in height above the finished grade;
  - 2. be set back at least 20 feet from any street line, and at least 10 feet from any other lot line;
  - 3. not exceed 32 square feet.

### ***Section 723: GLARE, LIGHTS, AND REFLECTION***

Applicants shall protect dark skies at night and ridgelines by minimizing exterior lighting or obtrusive glare by implementing the following measures:

- 1. Installing, constructing, and maintaining all outdoor lighting to minimize the intrusion of light across property lines, eliminate upward illumination and reduce glare, and to maximize the effectiveness of site lighting by limiting light to a target area.
- 2. Installing any pole lights to be lower than the area of the building they illuminate, or not greater than 15 feet tall, whichever is less, except where the applicant can demonstrate the need for taller lighting (i.e., athletic fields).
- 3. Requiring internal illuminated or externally lit commercial signs to be fully down-shielded or lit from the top down, or limiting light to a target area.
- 4. Requiring all building lighting for security or aesthetics to be down-shielded and targeted.
- 5. Prohibiting exterior unshielded wall pack lights.
- 6. Turning commercial lighting and illuminated signs off between the hours of 10:00 a.m. and 6:00 p.m. unless business is operating beyond those hours, or unless needed for safety or security in which case the lighting shall be down-shielded and minimized.

These Regulations shall not apply to solar or other energy generating structures.

## **ARTICLE VIII: FLOOD HAZARD DISTRICT (FHD) REGULATIONS**

### ***Section 800: FLOOD HAZARD DISTRICT: STATEMENT OF PURPOSE***

It is the purpose of these Regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in areas of special flood hazard, and to minimize losses due to floods by:

- a. Restricting or prohibiting uses that are dangerous to health, safety, or property in times of flood or cause excessive increase in flood heights or velocities;
- b. Requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time of initial construction;
- c. Protecting individuals from buying lands that are unsuited for their intended purposes because of flood hazard.

### ***Section 810: FLOOD HAZARD DISTRICT: LANDS TO WHICH THESE REGULATIONS APPLY***

These regulations shall apply to all lands in the Town of New Haven identified as areas of special flood hazard on the most recent Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), and any amendments thereto as of the date of submission of a permit application.

### ***Section 820: FLOOD HAZARD AREA MAP***

The Official Flood Hazard Area Map shall consist of the FEMA Flood Insurance Study, including the Flood Insurance Rate Map (FIRM), and Flood Boundary and Floodway Map. The Official Flood Hazard Area Map, together with all explanatory matter thereon and attached thereto and amendments as authorized by FEMA and the NFIP, is hereby adopted by reference and declared to be part of these Regulations.

# Town Of New Haven

## Flood Hazard District

### Legend

-  Parcel Boundaries
-  Flood Hazard District



### ***Section 821: FLOOD HAZARD DISTRICT BOUNDARIES***

The Zoning Administrator shall determine the boundaries of any designated area of special flood hazard by utilizing the Official Flood Hazard Area Map. Appeals with respect to a boundary interpretation shall be made by filing a notice with the Clerk of the Development Review Board within 15 days of the decision or act.

### ***Section 822: FLOOD HAZARD DISTRICT: PERMITTED USES***

Upon issuance of a permit by the Zoning Administrator, the following open space uses shall be permitted within the area of special flood hazard to the extent that they are not prohibited by any other ordinance and provided that they do not require the erection of structures or storage of materials and equipment, the borrowing of fill from outside the flood hazard area, or channel modification or relocation, and do not obstruct flood flows, affect the water carrying capacity of the regulatory floodway or channel, or increase off-site flood damage potential.

- a. Agricultural uses, such as general farming, pasture, orchard grazing, outdoor plant nurseries, truck farming, and forestry.
- b. Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving ranges, archery and shooting ranges, hiking, and riding trails, hunting, and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas, and boat launching sites.
- c. Accessory residential uses, such as lawns, gardens, parking areas, and play areas.

### ***Section 823: FLOOD HAZARD DISTRICT CONDITIONAL USES***

All new construction, substantial improvement, and development uses prescribed by the Town of New Haven zoning ordinance that do not meet the requirements of Section 822 and fall within the designated area of special flood hazard are permitted only upon the granting of a conditional use permit by the Development Review Board in accordance with the procedures and requirements of Section 329 of these Regulations.

### ***Section 824: FLOOD HAZARD DISTRICT PERMIT REQUIREMENTS***

Permits are required for all proposed new construction, substantial improvements, and other developments within all lands to which these Regulations apply.

All zoning permit applications shall be submitted to the Zoning Administrator, on forms furnished by the Zoning Administrator who shall determine on application whether or not the proposed development is located within the area of special flood hazard by the procedures established in these Regulations.

If the proposed use will be located in the areas of special flood hazard and meets the requirements of Section 822 of these Regulations, the Zoning Administrator shall Issue a permit. If the proposed use does not meet the requirements of Section 822, the Zoning Administrator shall refer all applicants to the Clerk of the Development Review Board.

## ***Section 825: FLOOD HAZARD DISTRICT RECORDS***

The Zoning Administrator shall maintain a record of:

- a. the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures and whether or not such structures contain a basement; and
- b. the elevation, in relation to mean sea level, to which such structures have been flood- proofed.

## ***Section 826: FLOOD HAZARD DISTRICT CONDITIONAL USE REVIEW***

Upon receiving an application for a conditional use permit under these Regulations, the Development Review Board shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant:

- a. base flood elevation data for all subdivisions and other proposed new developments greater than 50 lots or 5 acres, whichever is the smaller;
- b. the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
- c. where flood-proofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been flood- proofed;
- d. certification from a registered professional engineer or architect that the flood- proofed structure meets the flood-proofing criteria of these Regulations;
- e. A description of the extent to which any water course will be altered or relocated as a result of the proposed development.

In addition, the Development Review Board shall require the following information as it deems necessary for determining the suitability of the particular site for the proposed use:

- a. Plans drawn to scale, showing the location, dimensions, contours, and elevation of the lot; the size and location on the site of existing or proposed structures, fill or storage of materials; the location and elevations of streets, water supply, and sanitary facilities; and the relation of the above to the location of the channel, floodway, and base flood elevation.
- b. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, and cross-sectional areas to be occupied by the proposed development.
- c. A profile showing the slope of the bottom of the channel or flow line of the stream.
- d. Specifications for building construction and materials, flood-proofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel Improvement, storage of materials, water supply, and sanitary facilities.

In unnumbered A zones, the Development Review Board shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, as criteria for approval of all new construction and substantial improvements under Section 828.

The Development Review Board shall notify adjacent communities and the Vermont Department of Water Resources prior to approval of an alteration or relocation of a water

course and shall submit copies of such notifications to the FEMA Administrator.

The Clerk of the Development Review Board shall transmit one copy of the information required to the Vermont Department of Water Resources.

In reviewing each application, the Development Review Board shall consider the evaluation of the Vermont Department of Water Resources and shall determine that the proposed use will conform to the development standards of Section 828 of these Regulations.

No permit may be granted for new construction or the development of land in any area designated as a flood plain by the Vermont Department of Water Resources prior to the expiration of a period of 30 days following the submission of a report to all applicable state departments.

### ***Section 827: FLOOD HAZARD DISTRICT: DEVELOPMENT REVIEW BOARD CONSIDERATIONS***

In reviewing each application, the Development Review Board shall consider:

- a. the danger to life and property due to increased flood heights or velocities caused by encroachments;
- b. the danger that materials may be swept onto other lands or downstream to the injury of others;
- c. the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions under conditions of flooding;
- d. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- e. the importance of the services provided by the proposed facility to the community;
- f. the necessity to the facility of a waterfront location;
- g. the availability of alternative locations not subject to flooding for the proposed use;
- h. the compatibility of the proposed use with existing development and development anticipated in the near future;
- i. the relationship of the proposed use to the proposed Town Plan, insofar as it has been developed;
- j. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- k. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
- l. the costs of providing governmental and public facilities and services during and after flooding;
- m. such other factors as are relevant to the purposes of this ordinance.

### ***Section 828: FLOOD HAZARD DISTRICT: CONDITIONS***

As a condition of approval, the Development Review Board shall specifically require that:

- a. All new construction or substantial improvement of any residential structures have the first floor and basement floor elevated to, or above, the base flood elevation.
- b. All new construction or substantial improvement of non-residential structures have the lowest floor, including basement, elevated to or above the base level elevation, or be flood-proofed below the base flood level in accordance with Subsection c) of this section.

The lowest floor, including basement, and attendant utility and sanitary facilities of all new construction or substantial improvement below the base flood elevation be flood-proofed so that 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 the effects of buoyancy.

- c. Structures be designed and anchored to resist floatation, collapse, or lateral movement.
- d. Any encroachment, including fill, new construction, substantial improvement, or other development, be prohibited that will result in any increase in flood levels within the regulatory floodway during the occurrence of the base flood discharge, except as a flood control measure.
- e. The flood carrying capacity within any portion of an altered or relocated watercourse be maintained.
- f. All gas and electrical equipment, circuits, and appliances be located and constructed to minimize or eliminate flood damage.
- g. All new and replacement water supply systems be designed so as to minimize or prevent the infiltration of flood waters into the systems.
- h. All new and replacement sanitary sewage systems be designed to minimize or prevent infiltration of flood waters into the systems and discharges from the systems into flood waters.
- i. On-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.
- j. No mobile home shall be placed in the floodway.
- k. An evacuation plan indicating alternate vehicular access and escape routes be filed with and approved by the Town Emergency Management Director for mobile home parks and mobile home subdivisions located within the designated area of special flood hazard.
- l. All necessary permits be obtained from those governmental agencies from which approval is required by federal or state law.
- m. All subdivision proposals be reasonably safe from flooding and that:
  - 1. all public utilities and facilities serving subdivisions, such as sewer, gas, electrical, and water systems, be located and constructed to minimize or eliminate flood damage; and,
  - 2. adequate drainage be provided within subdivisions to reduce exposure to flood hazards.

Upon consideration of those factors in Section 828, and the purposes of these Regulations, the Development Review Board shall attach such additional conditions to the granting of a permit as are necessary to meet the purposes and flood hazard area management requirements of these Zoning Regulations.

### ***Section 829: FLOOD HAZARD DISTRICT: ACTING ON APPLICATION***

A warned public hearing addressing an application shall be required following the same procedures as outlined in Section 328 of these Regulations.

### ***Section 830: FLOOD HAZARD DISTRICT: ISSUANCE AND TRANSMISSION OF PERMITS***

Upon granting a permit, the Development Review Board shall send to the applicant, by certified mail, a copy of the decision. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing; a copy of the decision will be filed with the Zoning Administrator, who shall issue a permit forthwith, and the Town Clerk as a part of the public records.

### ***Section 831: FLOOD HAZARD DISTRICT: EFFECTIVE DATE***

A permitted use permit shall take effect when the time for appeal of the decision has passed. Conditional use permits shall take effect when the time for appeal of the decision has passed.

### ***Section 832: FLOOD HAZARD DISTRICT VARIANCES***

Variations under Article III shall be granted by the Development Review Board only if:

1. the variance meets all the conditions as specified in Section 330 of these Regulations and the finding is specified in its decision:
2. upon a determination that during the base flood discharge the variance will not result in increased flood levels in the designated regulatory floodway; threats to public safety, extraordinary public expense, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

In granting a variance, the Zoning Administrator shall notify the applicant that the issuance of a variance to construct a structure below the base flood level:

1. will result in increased premium rates for flood insurance; and
2. increased risk to life and property.

The Zoning Administrator shall:

1. maintain a record of all variance actions, including justification for their issuance; and
2. for notice of decision and recording purposes, follow the same requirements as indicated in Section 330.

### ***Section 833: FLOOD HAZARD DISTRICT: WARNING OF DISCLAIMER OF LIABILITY***

These Regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These Regulations shall not create liability on the part of the Town of New Haven or any Town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

### ***Section 834: FLOOD HAZARD DISTRICT: PRECEDENCE OF REGULATIONS***

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

***Section 835: FLOOD HAZARD DISTRICT ANNUAL REPORT TO FEMA***

The Town's Emergency Management Director shall, to the extent possible, submit the information required by the FEMA annual report form with respect to the administration and enforcement of these flood hazard area bylaws. A copy of the annual report shall be submitted to the state coordinating agency.

## ARTICLE IX: SUBDIVISION APPLICATION AND APPROVAL PROCESS

This Section explains the process for applicants desiring to subdivide land to secure a subdivision permit. Simple boundary line adjustments may be handled administratively by the Zoning Administrator (Section 910). All other applications to subdivide land begin with the application for a Sketch Plan Review (Section 920). A Sketch Plan Review is an informal meeting between the applicant and the Development Review Board (DRB) at which time the DRB may address any issues of concern, and determine whether the application constitutes a Minor or Major Subdivision.

Minor Subdivisions will proceed to final hearing because they involve less complicated issues and can generally be closed in one hearing.

Major Subdivisions will move to a hearing on the Preliminary Plat (Section 923). Both hearings constitute a more formal hearing process offering the opportunity for all parties with an interest in the project to participate before the Development Review Board. For Major Subdivisions, if an applicant's proposed subdivision is approved at the preliminary plat phase, the process moves to a hearing on the Final Plat (Section 924). For both Major and Minor Subdivisions, after the hearing on the Final Plat closes, the Development Review Board will issue a written decision on the proposed project. If approved, the local process ends with the filing of the Final Plat in the town land records and fulfillment of conditions, if any, on the approved application. Parties to the decision may appeal the decision.(Section 337)

### ***Section 900: APPLICATION OF SUBDIVISION REGULATIONS***

Whenever any subdivision of land is proposed, before any contract for sale of such subdivision or any part thereof is made, before any grading, clearing, construction or other improvement is undertaken, or before any permit for erection of a structure in such proposed subdivision is granted, the subdivider shall apply in writing to the Development Review Board for, and secure approval of, the proposed subdivision.

### ***Section 910: BOUNDARY LINE ADJUSTMENTS***

A boundary adjustment is any revision to property lines, including revisions to a Plat that has been legally filed with the Town, which moves property lines, but creates no new separate lots or parcels and has no adverse impact on access, the provision of public services and utilities, or neighboring uses. It must not create a non-conforming use or lot, such as non-conformance with setback requirements or permitted uses. A boundary adjustment may occur between two or more adjacent parcels. Because a boundary adjustment is not a subdivision, it may be approved by the Zoning Administrator except as described below. This power is delegated to the Zoning Administrator, as authorized by 24 V.S.A. § 4464(c).

#### **1. Exceptions**

If the total acreage that would be transferred from one lot or parcel to another as a result of the boundary adjustment would be large enough to subdivide (based on the average density permitted in its zoning district, which will be taken as a minimum lot size for this purpose) the

proposed boundary adjustment will be treated as a subdivision for which a discretionary permit is required. The exception to this rule is when a boundary adjustment expands the holdings of the Town or other public agencies for land conservation purposes, which may be of any size.

## **2. Administrative Discretion**

The Zoning Administrator may confer with the DRB prior to administrative approval of a larger boundary adjustment where an absence of public road access, difficult terrain, or other physical characteristics of the land involved allow the DRB to find that there is no significant potential for future subdivision.

## ***Section 920: SKETCH PLAN***

1. All applications that do not qualify as simple boundary line adjustments shall start with a sketch plan review. The Zoning Administrator may waive the sketch plan review requirement for proposed minor amendments to subdivision, conditional use, or site plan applications that received approval from the DRB within two years of the submission of the amended application. Sketch plan review is the most informal phase of the process, offering an opportunity for the applicant to make a proposal and receive informal feedback and guidance from the Development Review Board. The Board will not make any substantive decisions at the sketch plan phase, but may make suggestions to the applicant regarding issues of concern. The Board will make procedural decisions at the sketch plan review to determine whether an application constitutes a major or minor subdivision. It will also determine the information it will require from the applicant in the formal application process.
2. The applicant, or a duly authorized representative, shall attend the meeting of the Development Review Board to discuss the requirements of these Regulations for street improvements, drainage, sewage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information.
3. At this meeting, the Development Review Board will classify subdivisions into one of two categories as defined in Article IX, and will provide feedback on conditional use and sketch plans.
4. The Development Review Board shall study the sketch plan to determine whether or not it conforms to, or would be in conflict with the Town Plan, the Zoning Regulations, developments proposed by any public agency; existing private and public development, facilities and services; and for any special problems that may be encountered.
5. The Development Review Board shall determine whether the sketch plan meets the purposes of these Regulations and may make specific written recommendations for changes.

## ***Section 921: PRELIMINARY PLAT (MAJOR) AND FINAL PLAT (MINOR) APPLICATION AND REVIEW***

Within six months after classification of the Sketch Plan as a Major or Minor Subdivision by the Development Review Board, the applicant shall apply for approval of a Final Plat (for a Minor Subdivision) or a Preliminary Plat (for a Major Subdivision) according to the procedures and

requirements below. If the applicant fails to submit the plat application within 6 months, the Development Review Board may require resubmission of the Sketch Plan for reclassification. The plat the applicant submits should substantially conform to the layout shown on the Sketch Plan plus any recommendations made by the Development Review board in its findings from the Sketch Plan Hearing.

The plat application and review process shall be the same for Major and Minor Subdivisions, except that:

1. Minor Subdivisions may require only one hearing.
2. Because Minor Subdivisions are presumed to be smaller in size and impact, the review criteria for Minor Subdivisions may be more limited, and the Development Review Board may waive some of the application criteria. The Board will specify the information it is willing to waive in its Sketch Plan decision or review. The Development Review Board reserves the right to request information it originally waives if testimony at the hearing demonstrates the material is necessary for the Board to make a final determination of compliance on any criteria.

### ***Section 922: PRELIMINARY PLAT APPROVAL PROCESS***

Within 45 days after formal submission of a Preliminary Plat, the Development Review Board shall take action to approve, with or without modifications, or disapprove such Preliminary Plat. The grounds for any modifications required, or the grounds for disapproval shall be clearly stated in the Findings of Fact and Conclusion of the Board. Failure of the Board to act within 45 days shall constitute preliminary approval of the Preliminary Plat. Prior to preliminary approval, the Board may hold a preliminary hearing after public notice according to Section 328 of these Regulations.

When granting preliminary approval to a Preliminary Plat, the Development Review Board shall state the conditions of such approval, if any, with respect to:

- 1) The specific changes which it will require in the Preliminary Plat;
- 2) The character and extent of the required improvements for which waivers may have been requested;
- 3) The amount of improvement or the amount of all bonds which it will require as prerequisite to the approval of the subdivision plat.

Preliminary approval of a Preliminary Plat shall not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Development Review Board may require additional changes as a result of further study.

### ***Section 923: FINAL PLAT: APPROVAL AND REVIEW***

**Applications to State and Municipal Agencies:** The subdivider shall apply for all municipal and state permits required of the proposed subdivision and shall submit copies of these applications to the Development Review Board. Such permits may include, but are not limited to, a Zoning Permit, Highway Access Permit, an Act 250 Permit, Public Building Permit, and Department of Health Subdivision Permit.

1. **Public Hearing:** A public hearing upon public notice according to Section 328 of these Regulations shall be held by the Development Review Board within 30 days after the official submission of the Final Plat for approval. In addition, notice of such hearing shall be forwarded to the Regional Planning Commission, if any, of which such Municipality is a member and to the clerk of an adjacent Municipality, in the case of a plat located within 500 feet of a municipal boundary, at least 15 days prior to the hearing. Hearings may be recessed to a date and time certain but once closed, a decision must be made within 45 days.
2. **Action on Proposed Final Plat:** The Development Review Board shall, within 45 days from the close of the public hearing, approve, modify, or deny the plat application. Failure to act within the 45 days shall be deemed approval. Decisions including a statement of the factual basis for making the decision and conclusions shall be sent via certified mail to the applicant. Copies shall also be sent to every person or body having been heard at the hearing, and to the Zoning Administrator and Town Clerk for inclusion with the public records.
3. **Improvements and Performance Bond:** In lieu of a performance bond, the deed shall include a restriction on the infrastructure whereby the infrastructure will always be part of the subdivision, and not the responsibility of the Town.

### ***Section 924: FINAL PLAT***

The Final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements:

1. It shall be on linen, Mylar or canvas-backed paper clearly and legibly drawn, and the size of the sheets shall be either 18" x 24" or a multiple thereof.
2. Such sheets shall have a 2-inch margin outside the border lines on the left side for binding and a 1-inch margin outside the border along the remaining sides.
3. Space shall be reserved thereon for endorsement by all appropriate agencies. The subdivision plat shall show:
  - a) Proposed subdivision name or identifying title, the name of the Municipality, the name and address of the record owner and subdivider, the name, license number and seal of the licensed land surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks and scale, date, and true north point.
  - b) Street names and lines, pedestrian ways, lots, reservations, easements, and area to be dedicated to public use.
  - c) Sufficient data acceptable to the Development Review Board to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where practicable these should be tied to reference points previously established by a public authority.
  - d) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances, and tangent bearings for each street.
  - e) By proper designation on such Plat, all public open space for which offers of cession are made by the subdivider, and those spaces title to which is reserved

- by the subdivider.
- f) Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.
  - g) The location of all of the improvements, in addition to the location of all telephone poles, sewage disposal systems, and rough grading and other devices and methods of draining the area within the subdivision.
  - h) Permanent reference monuments shown with an "X".
  - i) All lot corner markers shown with a "Q". They shall be of metal at least ¾ inches in diameter and at least 24 inches in length, and located in the ground to existing grade.
  - j) Monuments which shall be set at all corners and angle points of the boundaries of the subdivision, and monuments required by municipal specifications for new roads, at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the engineer.
4. In accordance with Municipal specifications, all streets or other public places shown on such Plat shall be suitably graded and paved, and all utilities, street lighting standards, shade trees, water mains, sanitary sewers, storm drains, and recreation areas, where required by the Development Review Board, shall be installed in accordance with the standards, specifications and procedures set forth in these Regulations and other applicable Municipal regulations and ordinances, or, alternatively, a performance bond shall be required to ensure completion of such improvements.

### ***Section 925: SUBDIVISION PLAT: FILING AND APPROVAL***

1. **Final Approval and Filing:** Upon completion of the requirements in Section 924, and notation to that effect on the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Development Review Board (Chair or Vice Chair) and filed in the office of the Municipal Clerk. The DRB decision is considered having been issued on the day it is signed (i.e., date appearing on the written decision over the signatures of DRB members.) Any subdivision plat not so filed within 180 days of the date on which such Plat is approved or considered approved by reasons of the failure of the Development Review Board to act, shall become invalid.
2. **Filing of Sections of Subdivision:** At the time the Development Review Board grants final Plat approval, it may permit the Plat to be divided into two or more sections subject to any conditions the Development Review Board deems necessary in order to ensure the orderly development of the Plat.
3. **Plat Void if Revised After Approval:** No changes, erasures, modifications, or revisions shall be made on any subdivision plat after approval has been given by the Development Review Board and endorsed in writing on the Plat, unless the modified Plat is resubmitted to the Development Review Board for approval.

### ***Section 926: PUBLIC ACCEPTANCE OF STREETS, RECREATION AREAS***

1. Submission of a subdivision plat shall not be deemed to constitute or be evidence of any

acceptance by the Municipality of any street, easement, utilities, park, recreational area, or other open space shown on such subdivision plat. The Development Review Board may require the filing of a written agreement between the applicant and the legislative body covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such improvements.

### ***Section 927: PLANNING STANDARDS***

1. **Character of the Land:** All land to be subdivided shall be, in the judgment of the Development Review Board, of such a character that it can be used for building purposes without danger to public health or safety, or to the environment. Land subject to periodic flooding, poor drainage, inadequate capability to withstand structures, including streets, utilities, and buildings, or other hazardous conditions, shall not ordinarily be subdivided.
2. **Energy Conservation:** In order to conserve energy, all subdivisions shall use the least areas of roadway and the least length of sewer, water, and utility lines within environmentally and economically sound limits. All subdivisions shall be designed so as to take advantage of southeast, south, and southwest orientations where possible and so that the maximum number of buildings shall receive sunlight sufficient for using solar energy systems for space and water heating. Landscaping should be effectively used for providing wind barriers and reducing heat loss, and heat gain. Cluster development (Planned Unit Development) should be encouraged wherever feasible and desirable.
3. **Reserved Strips:** No privately owned reserved strip, except on open space areas, shall be permitted which controls access to any part of the subdivision or to any other parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated.
4. **Lot Layout:** The layout of lots shall conform to the requirements of the Zoning Regulations where in force and shall be appropriate for the intended construction. Corner lots shall have extra width to permit a setback on each street. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines. Consideration in lot layout shall be given to topographic and soils conditions.
5. **Preservation of Existing Features:** Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, and historic resources.

### ***Section 928: STREETS***

1. **Layout:** The layout of streets in the subdivision shall run in an east-west direction to the greatest extent possible in order to minimize future shading problems and to provide for the southerly orientation of buildings. Exceptions to the above requirement shall be granted if for safety or economic reasons it would be desirable for the arrangement of streets in the subdivision to provide for the continuation of principal streets in any adjoining subdivision or if topographic conditions or preservation of natural features makes an east-west street orientation difficult or undesirable, and if other design techniques like clustering are used to obtain good solar orientation of buildings. Streets shall be dedicated or reserved in the locations and widths shown on the official map as a condition of Plat approval.

Where the subdivision borders on an existing street and the Town Plan or Municipal Highway Plan indicates plans for re-alignment or widening of the street that would require reservation of some land of the subdivision, the Development Review Board shall require that such areas be shown and marked on the Final Plat "Reserved for Street Realignment (or Widening) Purposes."

2. **Topography:** Streets shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets.
3. **Horizontal Alignment at Intersections:** Intersections of streets shall be 90 degrees. Two streets intersecting the same street (T-intersections) shall be offset by at least 200 feet (centerline offset) when practicable.
4. **Vertical Alignment at Intersections:** The gradient within 100 feet of intersections shall not exceed 3%.
5. **Access:** Access shall be available for fire, ambulance, and police vehicles to within 100 feet of the principal entrances to dwellings, commercial or industrial establishments, and institutions.
6. **Cut and Embankment Slopes:** All slopes shall be well-rounded to form a smooth transition from the shoulder edge to the existing grades.
7. **Dead-end Streets, Cul-de-sacs, and Turn-arounds:** The maximum length of a cul-de-sac or dead-end street shall be 1,200 feet. An exception to the requirements may be made for temporary dead-end streets. Dead-end streets or cul-de-sacs shall terminate in a turn-around with a radius of 100 feet and a minimum traveled area of 22 feet in width. Provisions shall be made for temporary turn-arounds for temporary dead-end streets.
8. **New Streets:** All new streets shall comply with Town Highway specifications or standards. New streets in rural areas shall comply with the most recent version of the Vermont Agency of Transportation B-71 Standards for Residential and Commercial Drives (see Appendix). Any driveway serving four (4) or more lots, must comply with B-71 standards.
9. **Street Names:** Streets shall be identified by name on the Preliminary Plat. Proposed streets, which are obviously in alignment with others already existing and named, shall bear the names of existing streets. In no case shall the names for proposed streets duplicate existing names, irrespective of the suffix, be it street, avenue, boulevard, driveway, place, or court.
10. **Access Road:** If the access road to the subdivision is a Class 4 road, the Development Review Board may require the subdivider to improve the access road to municipal highway construction standards. If in the Municipal Five-Year Highway Plan, the Class 4 road is not intended to be reclassified as Class 3, the subdivider must make arrangements for maintenance of the access road satisfactory to the Development Review Board until such time as the legislative body may reclassify the road. Reference should be made to 19 V.S.A. §17, as now in force or as may be from time to time subsequently amended, for clarification of definition of Class 1, 2, 3, and 4 Town highways. The Development Review Board may require the subdivider to improve any

access road where it intersects with new streets or driveways in the subdivision to facilitate traffic circulation and pedestrian and vehicular safety.

11. **Curbs and Sidewalks:** Curbs and sidewalks may be required in zoning districts where deemed necessary by the Development Review Board.

### ***Section 929: PEDESTRIAN ACCESS***

Where necessary, in the judgment of the Development Review Board , rights-of-way for pedestrian travel and access may be required to facilitate pedestrian circulation within the subdivision and to provide access to public property.

### ***Section 930: UTILITIES***

1. **Easements:** The Development Review Board may require that underground utilities be placed either in the street right-of-way between the paved roadway and street line or placed horizontally underneath the roadway. Where inclusion of utilities in the street right-of-way is impractical, perpetual, unobstructed easements 25 feet in width shall be provided with satisfactory access to the street.
2. **Extension of Municipal Utilities:** All subdivisions shall make adequate provisions for water supply, storm water and sanitary sewage disposal, and required utilities and improvements.
3. **Depth of Utility Mains:** Water and sewer mains must be laid below the depth of frost penetration of the area. Sewer lines shall be set lower than water mains.

### ***Section 931: DRAINAGE IMPROVEMENTS***

An adequate surface storm water drainage system for the entire subdivision area shall be provided per state stormwater permit(s)

### ***Section 932: SITE PRESERVATION AND IMPROVEMENTS***

- a. **Natural Cover:** Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff and conserve the natural cover and soil. After application for approval has been made to the Development Review Board, no topsoil, sand, or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these regulations.
- b. **Shade Trees:** The Development Review Board may require that suitable shade trees be planted along streets where trees do not exist. Shading by trees of the most southerly facing roof and wall of dwelling units shall be minimized to the greatest possible extent in selecting tree species and locating trees along streets. All trees are to be planted a minimum of 5 feet from the street line. The DRB shall have the discretion to impose reasonable requirements as to height and other characteristics of trees to be planted.
- c. **Erosion and Sediment Control:** The smallest practical area of land should be exposed at any one time during development. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the Development Review Board to protect areas exposed during the development. Sediment basins shall be installed and maintained during

development to remove sediment from run-off water and from land undergoing development.

- d. **Excavation and Grading:** The entire area of work shall be brought to the required lines and grades by excavation or filling. A minimum of 4 inches of topsoil shall be provided to cover all finished slopes. All streets shall be graded from property line to property line to approved grade and cross section. The Development Review Board may require the developer to submit evidence of boring and/or other soil investigations to determine the depth composition and stability of the subgrade within the road section. Materials for embankment shall be placed in successive horizontal layers not exceeding 6 inches in depth. They shall be thoroughly compacted. The Development Review Board may require embankments to be planted with stabilizing shrub or ground cover and seeded with a deep root perennial grass to prevent erosion.

### ***Section 933: OPEN SPACE AND RECREATION AREAS***

Where a proposed park, playground or other recreation area is shown on the Town Plan to be located in whole or in part in a proposed subdivision, the Development Review Board shall require that such area or areas be shown on said Plat.

### ***Section 934: ORGANIZATIONS AND MANAGEMENT RESTRICTIONS***

When a development involves common ownership of community facilities, open spaces, or other commonly held property, a management organization to operate and maintain these facilities shall be required by the Development Review Board. A copy of the bylaws shall be submitted by the subdivider describing this organization, its membership and deed restrictions, which must meet the requirements of the Development Review Board.

## ARTICLE X: DEFINITIONS

Certain meanings or references and words used herein shall be defined as listed below. Unless the content clearly indicates to the contrary, words in the singular include the plural and those in the plural include the singular. The word "person" includes a corporation, unincorporated association, and a partnership, as well as an individual. The word "building" includes structures and shall be construed as if followed by the phrase "or part thereof." The word "may" is permissive; the words "shall" and "will" are mandatory.

**ACT:** Title 24 VSA Chapter 117: Vermont Municipal and Regional Planning and Development Act.

**ACCESSORY ON-FARM BUSINESS (AOFB):** Activity located on, and accessory to, a farm regulated by the Agency of Agriculture, Food & Markets under the Required Agricultural Practice (RAP) rules.

**ACCESSORY USE OR BUILDING:** A use or building customarily incidental and subordinate to the principal use or building and located on the same lot, including but not limited to; portable lightweight structures, carports, storage sheds, storage units, storage containers, storage trailers, vehicles used primarily for storage, pole barns and similar accessory structures with or without permanent foundations or footings.

**ACCESSORY DWELLING UNIT:** An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. Accessory Dwelling Units need not be attached to the primary residence but may exist within a separate structure. The property owner may occupy either the accessory dwelling unit or primary unit. Additional requirements for accessory dwelling units are contained within Section 410 of these regulations.

**ADAPTIVE RE-USE:** A change in use of an historic structure as provided in Section 527.

**AFFORDABLE HOUSING :** A residential subject to covenants or deep restrictions that preserves its affordability for a minimum of 15 years for use as "affordable housing" as that term is defined in 24 VSA Section 4303(1).

**AGRICULTURE:** As defined by the Vermont Agency of Agriculture, Food and Markets: The cultivation of other use of land for growing food, fiber, Christmas trees, maple sap, or horticulture, viticulture, and orchard crops; the raising, feeding, or management of livestock, poultry, fish, or bees; the operation and sale of agricultural products principally produced on the farm; the on-site production of fuel or power from agricultural products or wastes produced on the farm; or the raising, feeding, or management of four or more horses owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, graining, and the management of horses. All types of agriculture must adhere to Required Agricultural Practices (RAPs) as defined by the Vermont Agency of Agriculture , Food and Markets and which are required management strategies that reduce the impact of agricultural activities on water quality.

**ALTERATION:** Structural changes, re-arrangement, change of location or addition to a building.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the flood plain within a community subject to a 1% or greater chance of flooding in a given year. The area Includes all A zone designations on

the Flood Insurance Rates Map (FIRM), or, in the absence of the FIRM, on the Flood Hazard Boundary Map (FHBM). It does not include Zones B and C.

**BASE FLOOD:** The flood having a 1% chance of being equaled or exceeded in any given year.

**BASEMENT:** Story partly underground. A basement shall be counted as a story if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is more than 6 feet.

**BED AND BREAKFAST:** A single-family dwelling occupied by the owner or operator, in which not more than 4 rooms accommodating up to 10 guests within the dwelling and/or in an accessory structure located on the same lot, are rented out to provide overnight accommodations to transient travelers. Individual cooking and eating facilities shall not be provided; meals shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests.

**BOUNDARY ADJUSTMENT:** A boundary adjustment is any revision to property lines, including revisions to a Plat that has been legally filed with the Town, which moves property lines, but creates no new separate lots or parcels and has no adverse impact on access, the provision of public services and utilities, or neighboring uses. It must not create a non-conforming lot. A boundary adjustment may occur between two or more adjacent parcels. Because a boundary line adjustment is not a subdivision, it may be approved by the Zoning Administrator except as described in Section 910. This power is delegated to the Zoning Administrator, as authorized by 24 V.S.A. § 4464(c).

**BUILDING:** Structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or individual property. Includes any covered carport, porch, terrace, deck, or steps.

**BUILDING AREA:** Total of area taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings. Any solar collection device or related apparatus not part of the floor area of a building is not included. All dimensions shall be measured between the exterior faces of the walls.

**BUILDING ENVELOPE:** A specific area of a lot, delineated on a site plan or subdivision plat and approved as part of a zoning permit, subdivision approval, or PUD approval, within which structures, parking and loading areas, are authorized to be located, and outside of which no structures, parking or loading areas shall be located except as specifically permitted under these Regulations.

**BUILDING FRONT LINE:** Line parallel to the street line transecting that point of the building which is closest to the street line. Where a lot fronts on public waters but not a public road -- "mean water line" shall replace "street line" in this definition.

**BUILDING HEIGHT :** Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**BUILDING REAR LINE:** Line parallel to the street line transecting that point of the building which is farthest from the street line. Where a lot fronts on public waters but not a public road -- "mean water line" shall replace "street line" in this definition.

**BUILDING SIDELINE:** Line parallel to the nearest side lot line transecting that point of the building which is nearest the side lot line.

**CAMPER:** Any motorized or un-motorized vehicle mounted on wheels and designed for sleeping, and/or camping, or living quarters. This includes a camper body mounted on a truck, and excludes mobile homes.

**CAMPGROUND:** Any tract or parcel of land occupied by 4 or more campers, tents, or tent sites for vacation or recreational purposes.

**CANNABIS CULTIVATION:** A cannabis cultivator is a person licensed by the State Cannabis Control Board to engage in the cultivation of cannabis in accordance with V.S.A. § 831.

**CANNABIS MANUFACTURING:** “Cannabis product manufacturer” or “product manufacturer” means a person licensed by the State Cannabis Control Board to manufacture cannabis products in accordance with V.S.A. §831.

**CERTIFICATE OF COMPLIANCE/OCCUPANCY:** Upon completion of any work or change in use requiring a permit under these Regulations, and prior to occupancy, the permittee shall request a Certificate of Compliance certifying that the structure or use conforms to the approved plans filed with the Zoning Administrator filed for the zoning permit, and with all applicable provisions of these Regulations. A Certificate of Occupancy issued by the Zoning Administrator states that the proposed use of the land or structure conforms to the provisions of these Regulations.

**CHANGE OF USE:** Includes any proposed use which differs from the current use based on the type, intensity, or magnitude of use. This may include a change from one category of use to another, or from an accessory to a principal use, or from seasonal use to year-round use, or any change in activity whereby the proposed use will likely generate more traffic, odor, noise, vibration, smoke, dust, heat or glare than the current use.

**CHILD CARE FACILITY I:** A home or facility where the owner or operator provides childcare to no more than 6 children at any one time, including but not limited to facilities that include an educational component for children but are not licensed by the Department of Education.

**CHILD CARE FACILITY II:** A home or facility where the owner or operator provides childcare to more than 6 children at any one time, including but not limited to facilities that include an educational component for children but are not licensed by the Department of Education.

**CLINIC:** A building used by members of the medical professions for the diagnosis and outpatient treatment of human or animal ailments.

**CLUB:** Building or use catering exclusively to club members and their guests for recreational, educational, or service purposes.

**COMMUTER PARKING LOT:** An area where motor vehicles may be parked for commuter purposes for a period of time not to exceed 48 hours.

**CONDITIONAL USE:** Use which may be permitted only by approval of the Development Review Board after public notice and public hearing to determine whether the proposed use will conform to general and specific standards as set forth or referred to in Section 328 of these Regulations.

**CONTRACTOR'S YARD:** Lot or buildings used to store a contractor's equipment and materials. Not to include retail sales facility.

**CORNER LOT:** Lot which has an interior angle of less than 135 degrees at the intersection of 2 streets.

**DEVELOPMENT UNIT:** A single principal building and any accessory dwelling unit and other accessory buildings located on the same lot and associated with the principal building.

**DEVELOPMENT ZONE:** The building envelope of any lot that has been assigned a defined building envelope or, in the case of a lot that has not been assigned a defined building envelope, the portion of the lot occupied by any buildings, parking, and loading areas.

**DWELLING UNIT:** Building or part thereof used as living quarters for one family.

**DWELLING, ONE-FAMILY:** Building used as living quarters by one family.

**DWELLING, TWO-FAMILY:** Building used as living quarters by two families living independently of each other.

**DWELLING, THREE FAMILY:** Building used as living quarters by three families living independently of each other.

**DWELLING, MULTI-FAMILY:** Building used as living quarters by more than three families living independently of each other.

**EASEMENT:** The authorization of a property owner, in a deed or other suitable written document, for the use by another of a designated part of their property for a specific purpose.

**ENCLOSED MANUFACTURING AND INDUSTRIAL PROCESSES OR SERVICES:** Manufacturing and industrial processes or services that are conducted entirely within a building.

**EV CHARGING STATIONS:** Electric vehicle charging station means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.

**EVENTS:** A gathering of more than 50 people for a common activity, including but not limited to a wedding, reception, concert, reunion, convention, or corporate meeting.

**EXEMPT USE OR STRUCTURE:** Any structure or use that is exempt from the requirement of a zoning permit under Section 300.

**FARM STRUCTURE:** A building, enclosure or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with an accepted agricultural practice; or is used by a farmer filing with the Internal Revenue Service a 1040(F) income tax statement in at least one of the past two years; or is on a farm with a business and farm management plan approved by the Secretary of Agriculture. This definition specifically excludes dwellings for human habitation, in accordance with the Act [§4413(d)].

**FEMA:** Federal Emergency Management Agency

**FENCE:** Structure used primarily for enclosure or screening.

**FINAL SUBDIVISION PLAT:** The final drawings on which the subdivider's plan of subdivision is presented to the Development Review Board for approval and which, if approved, may be filed for recording with the Municipal Clerk.

**FINISHED GRADE:** Completed surfaces of ground, lawn, walks, paved areas, and roads brought to grade as shown on plans relating thereto.

**FIRM (Flood Insurance Rate Map):** An official map of a community, on which the Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM is issued after FEMA has completed a flood study of the community.

**FLOODWAY:** The channel of a river or other water course, 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.

**FLOOD-PROOFED OR FLOOD-PROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**FLOOR AREA:** Sum of the gross horizontal area of the floors of a building, excluding basement floor areas. All dimensions shall be measured between interior faces of walls. For zoning regulations, such as the calculation of allowable space, floor area shall exclude all spaces designed and used for accessibility purposes, including elevators, wheelchair ramps, and wheelchair mobility.

**FOOD TRUCKS:** A movable vehicle where food is prepared and sold.

**FOOTPRINT:** The horizontal area of the ground level of a structure as measured from the exterior faces of walls.

**FREIGHT AND TRUCKING TERMINALS:** The buildings, facilities and parking areas used for the loading and dispatching of freight vehicles.

**FRONT YARD SETBACK:** Consists of the distance from the proposed use's front line to the center of the public or private road or street. Use includes buildings, structures, exterior displays, and non-residential parking areas/lots located nearest the center of the road or street and property boundaries. Where a lot fronts on public waters but not a public road, the front yard setback shall consist only of the depth of the front yard (building front line to mean water line).

**GASOLINE OR MOTOR VEHICLE SERVICE STATION:** Any lot or area of land, including the building or buildings thereon, which is used for the sale of any motor vehicle fuel or lubricant, or which has commercial facilities for lubricating, washing, painting, repairing, or servicing motor vehicles.

**HAZARDOUS WASTE:** Hazardous wastes have properties or contain chemicals which make them dangerous or capable of having harmful effects on public health or on the environment. The hazardous properties are ignitability, corrosivity, reactivity, or toxicity.

**HISTORIC STRUCTURE:** Any contributing structure that is listed on the National Register of Historic Places or the Vermont Historic Sites and Structures Survey for the Town of New Haven, or that has been determined by the Vermont Division for Historic Preservation to be eligible for listing on either the state survey or national register. See Adaptive Reuse.

**HOME BUSINESS:** In accordance with the requirements of Section 610 of these Regulations, a conditional accessory use of residential property for business purposes by a resident of that property in accordance with the requirements of Section 328 of these Regulations.

**HOME OCCUPATION:** In accordance with the requirements of Section 423 of these Regulations, a permitted accessory use of residential property for business purposes by a resident of that property in accordance with the requirements of Section 423 of these Regulations.

**INTERESTED PERSON:** An interested person is one who meets the requirements as defined by the Act, those being:

1. A person owning title to property affected by these Regulations who alleges that these Regulations impose an unreasonable or inappropriate restriction to the use of that property.
2. The Municipality or any adjoining Municipality that has their Plan or Zoning Regulations at issue under appeal.
3. A person owning or occupying property in the immediate neighborhood of a property at issue and who can demonstrate a physical or environmental impact on their interest and who alleges that a decision will not be in conformance with the Plan or Zoning Regulations of the Municipality.
4. Any 10 voters of the Municipality, or adjoining Municipality who, by signed petition allege that a decision will not be in conformance with the plan or bylaws of the Municipality and who have designated one person to represent their interests.
5. Any department or subdivision of the state owning property within the Municipality or adjoining Municipality and the Agency of Commerce and Community Development.

**KENNEL:** Any lot or premise on which two or more dogs, at least 4 months of age, are kept for sale or commercial breeding or boarding purposes. Kennels are regulated by the State.

**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, land, or extension of use of land.

**LEGISLATIVE BODY:** The New Haven Select Board.

**LIGHT MANUFACTURING:** The manufacture of products, the process of which does not create and emit fumes, gases, smoke, vibrations, noise or glare or other factors which are regarded as nuisances which would cause adverse effects to the users of adjacent land.

**LODGING ESTABLISHMENT I:** A building or group of buildings used for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals. Does not include tourist home.

**LODGING ESTABLISHMENT II:** A building or group of buildings used for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, with more than 4 rooms.

**LOT:** A tract or portion of land with defined boundaries that are either created by the act of subdivision or which are naturally divided from other lots by a state or municipal highway, road or right-of-way, by surface waters with a drainage area of greater than 10 square miles, or by a municipal boundary. See also "Merger."

**LOT AREA:** Total area within the property lines excluding any part thereof lying within the boundaries of an existing or proposed street.

**LOT COVERAGE:** That percentage of the lot area covered by the building area.

**LOT DEPTH:** Perpendicular to center line of road.

**LOT FRONTAGE:** Distance measured across the width of the lot at the public road or, in the absence of a public road, the public waters.

**LOT LINE:** Property lines bounding a lot.

**LOT WIDTH:** Width measured at right angles to its lot depth, at the proposed or existing building front line.

**MAJOR SUBDIVISION:** A subdivision containing 3 or more lots, or the division of a parcel of land, which lots do not have frontage on an existing public street, or which may require a new municipal street, street extension, or extension of municipal facilities.

**MANUFACTURING:** The use of land and/or structures for the manufacturing process, fabrication, testing, and/or assembly of products, which also includes associated research and development, warehousing, and shipping activities. The processing of agricultural products on the premises where they are grown shall not be deemed to be manufacturing.

**MERGER:** The combination of multiple lots into a single lot for zoning purposes. Merger is accomplished by the conveyance of a deed that specifies an intent to merge two or more lots. The conveyance of multiple lots by a single deed, or the conveyance of two or more adjacent lots into common ownership, does not automatically merge the lots unless the deed specifies an intent to merge.

**MINOR SUBDIVISION:** A subdivision containing not more than 2 lots which have frontage on an existing public street, and which does not require any new municipal street, street extension or extension of municipal facilities.

**MOTOR VEHICLE SALES AND SERVICE FACILITY:** A retail establishment for the display, sale, and service of motor vehicles, including but not limited to cars, trucks, vans, campers, boats, motorcycles, agricultural equipment, or snowmobiles.

**MUNICIPALITY:** Town of New Haven.

**NON-CONFORMING LOTS:** Lots that do not comply with all zoning regulations covering dimensional requirements where such lots or parcels complied with all applicable laws, ordinances, and regulations prior to enactment of these Regulations as amended including a use improperly authorized as a result of an error by the Zoning Administrator.

**NON-CONFORMING STRUCTURE:** A structure or part of a structure that does not conform to these Regulations but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of these Regulations, including a structure improperly authorized as a result of error by the Zoning Administrator.

**NON-CONFORMING USE:** Use of land that does not conform to these Regulations but did conform to all applicable laws, ordinances, and regulations prior to the enactment of these Regulations, including a use improperly authorized as a result of error by the Zoning Administrator.

**OFFICE:** Building or portion thereof wherein general business is conducted, including a professional or public office.

**OPEN SPACE:** Land not occupied by structures, buildings, streets, rights-of-way, and parking lots.

**PARKING SPACE:** Off-street space used for the temporary location of one licensed motor vehicle.

**PERMITTED USE:** Use specifically allowed in the district, excluding illegal uses and non-conforming uses.

**PERSONAL SERVICE:** Barber, beauty parlor, shoe repair, laundromat, dry cleaner, photographic studio, and other businesses providing similar personal services, except for medical services.

**PLANNED UNIT DEVELOPMENT (PUD):** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from regulation requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building use, density, intensity, lot coverage, parking, required common open space, or other standards.

**PLAT:** A map or plan drawn to scale of one or more parcels, tracts, or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements, and other rights.

**PRELIMINARY PLAT:** The preliminary drawings indicating the proposed layout of the subdivision or other development to be submitted to the Development Review Board for consideration.

**PRINCIPAL BUILDING:** A building used or intended to be used for the principal use on a lot.

**PRIVATE ROAD:** A road or street other than a highway, as that term is defined in 19 V.S.A. §1(12), that is owned by one or more persons, and used as a means of travel from a highway to more than one parcel of land.

**PUBLIC HIGHWAY:** Highway, road, public highway, or public road to include all parts of any bridge, culvert, roadway, street, square, fairground, or other place open temporarily or permanently to public or general circulation of vehicles, and to include a way laid out under authority of law. (23 V.S.A. §4)

**QUARRYING:** Marble, granite, or other stone extraction operations, and any land development incidental thereto.

**REAR LOT LINE:** The lot line opposite and most distant from the street line. Where a lot fronts on public waters but not a public road, "mean water line" shall replace "street line" in this definition.

**REAR SETBACK:** The distance from a proposed use's rear line to the nearest boundary line.

**RECREATION - INDOOR:** A facility open to the public that offers physical fitness, sports, games and other leisure-time activities primarily within an enclosed structure. Examples of indoor recreation include, but are not limited to, indoor bowling alleys, theaters, table tennis and pool halls, indoor swimming pools, indoor skating rinks, gymnasiums, and hobby workshops.

**RECREATION - OUTDOOR:** A facility open to the public that offers physical fitness, sports, games, and other leisure-time activities primarily outside an enclosed structure. This definition specifically excludes campgrounds and recreation activities involving motorized vehicles. Examples of outdoor recreation include, but are not limited to, golf courses, trap, skeet, and archery ranges, outdoor swimming pools, outdoor skating rinks, riding stables, parks, riverside and beach facilities, tennis courts, recreation stadiums, and skiing facilities.

**REGIONAL PLANNING COMMISSION:** Planning Commission for a region created under Subchapter 3 of the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117.

**REQUIRED AGRICULTURAL PRACTICES (RAP):** Required Agricultural Practices (RAP's) as established by the Secretary of Agriculture, Food, and Markets and the Commissioner of Forests, Parks, and Recreation. See Agriculture.

**RESIDENTIAL CARE OR GROUP HOME I:** A state-licensed or registered community care home serving not more than 8 persons who have a disability.

**RESIDENTIAL CARE OR GROUP HOME II:** A state-licensed or registered community care home serving more than 8 persons who have a disability.

**RESIDENTIAL USE:** One-family dwelling, two-family dwelling, or multiple-family dwelling.

**RETAIL STORE I:** An establishment offering goods or services for retail sale direct to walk-in customers which is primarily housed in one or more enclosed buildings totaling no more than 4,000 square feet.

**RETAIL STORE II:** An establishment offering goods or services for retail sale direct to walk-in customers which is either housed in one or more enclosed buildings totaling between 4,000 and 10,000 square feet, or which is primarily housed outdoors. In no case shall a retail store occupy enclosed buildings totaling more than 10,000 square feet.

**RESTAURANT:** A public eating establishment in which the primary function is the preparation and serving of food.

**SERVICE AREA:** A designated space used for waste storage or pickup, utility areas, or for the delivery of goods and services to any building or land use.

**SIDE SETBACK:** The distance from the proposed use's sideline to the nearest boundary line.

**SIGN:** Any structure, display, device, or representation, either temporary or permanent, portable or ground-mounted, that is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any highway or other right-of-way. It does not include the flag, pennant, or insignia of any nation, state, or town. Whenever dimensions of a sign are specified, they shall include panels and frames.

**SITE PLAN:** A plan of a project created by an applicant showing the relevant features of a project necessary to satisfy the review criteria imposed by these Regulations and reviewed by the Development Review Board.

**SKETCH PLAN:** A sketch of the proposed subdivision showing information specified in Article IX, Section 920 of these Regulations to enable a preliminary review by the DRB.

**STREET:** Any road, highway, avenue, street, land, or other way between right-of-way lines, commonly used by the public for vehicular traffic.

**STREET LINE:** Right-of-way line of a street as dedicated by a deed or other proper instrument of record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center line of the street.

**STRUCTURE:** Anything constructed, erected, or placed on property, the use of which requires location on the ground, or attachment to something located on the ground (not including roads and parking lots).

**SUBDIVIDER:** Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for the subdivider or others.

**SUBDIVISION:** The division of land into two or more lots by sale, gift, lease, mortgage, foreclosure, court-ordered partition or decree, or filing of a plat, plan, or deed in the Town records. Subdivision shall be deemed to have occurred on the conveyance of the first lot or the filing of a plat, plan, or deed in the Town records, whichever occurs first. A lease will not be considered a subdivision unless the lease is for a term of more than 50 years and is effectuated by the filing of a plat, plan, lease, memorandum, or deed in the Town records.

**SUBSTANTIAL IMPROVEMENT:** Specific to Flood Hazard Area: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, (a) before the improvement or repair is started, or (b) If the structure has been damaged, and is being restored, before the damage has occurred. The term does not, however, include: (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**TINY HOMES:** A structure intended for year-round occupancy that: a) contains facilities for sleeping, eating, cooking and sanitation; b) is constructed on either a permanent foundation or on a trailer or semi-trailer as those terms are defined pursuant to 23 VSA §4(40)d; and c) has not more than 400 square feet of floor area, excluding any lofts.

**TOWN HIGHWAY, CLASS 1:** Town highways designated by the State Agency of Transportation which are part of a state highway route, and which carry a state highway route number.

**TOWN HIGHWAY, CLASS 2:** Town highways designated by the legislative body of the Municipality with the approval of the Agency of Transportation for securing trunk lines of improved highways from town to town, and to places which by their nature have more than normal amounts of traffic.

**TOWN HIGHWAY, CLASS 3:** All other traveled Town highways, other than Class 1 or Class 2, designated by the legislative body of the Municipality, with the approval of the Agency of Transportation.

**TOWN HIGHWAY, CLASS 4:** All other Town highways, other than Class 1, 2, or 3 highways, designated by the legislative body of the Municipality.

**TOWN PLAN:** New Haven Town Plan as adopted and amended.

**VARIANCE:** A mechanism which grants a variation from the literal provisions of the Zoning

Regulations in instances where strict enforcement of the regulation would cause undue hardship due to circumstances unique to the individual property under consideration.

**VETERINARY CLINIC/ANIMAL HOSPITAL:** A building or premises for the medical or surgical treatment of domestic animals.

**WAIVER:** V.S.A. Chapter 117 authorizes the use of waivers to grant reductions in applicable dimensional requirements which may be applied in lieu of variance criteria, under standards and review procedures specified in these Regulations.

**YARD:** Space on a lot not occupied with a building or structure.

**YARD, FRONT:** Yard between the street line and the building front line. Where a lot fronts on public waters but not a public road, "mean water line" shall replace "street line" in this definition.

**YARD, REAR:** Yard between the rear lot line and the building rear line.

**YARD, SIDE:** Yard between a side lot line and a building sideline.

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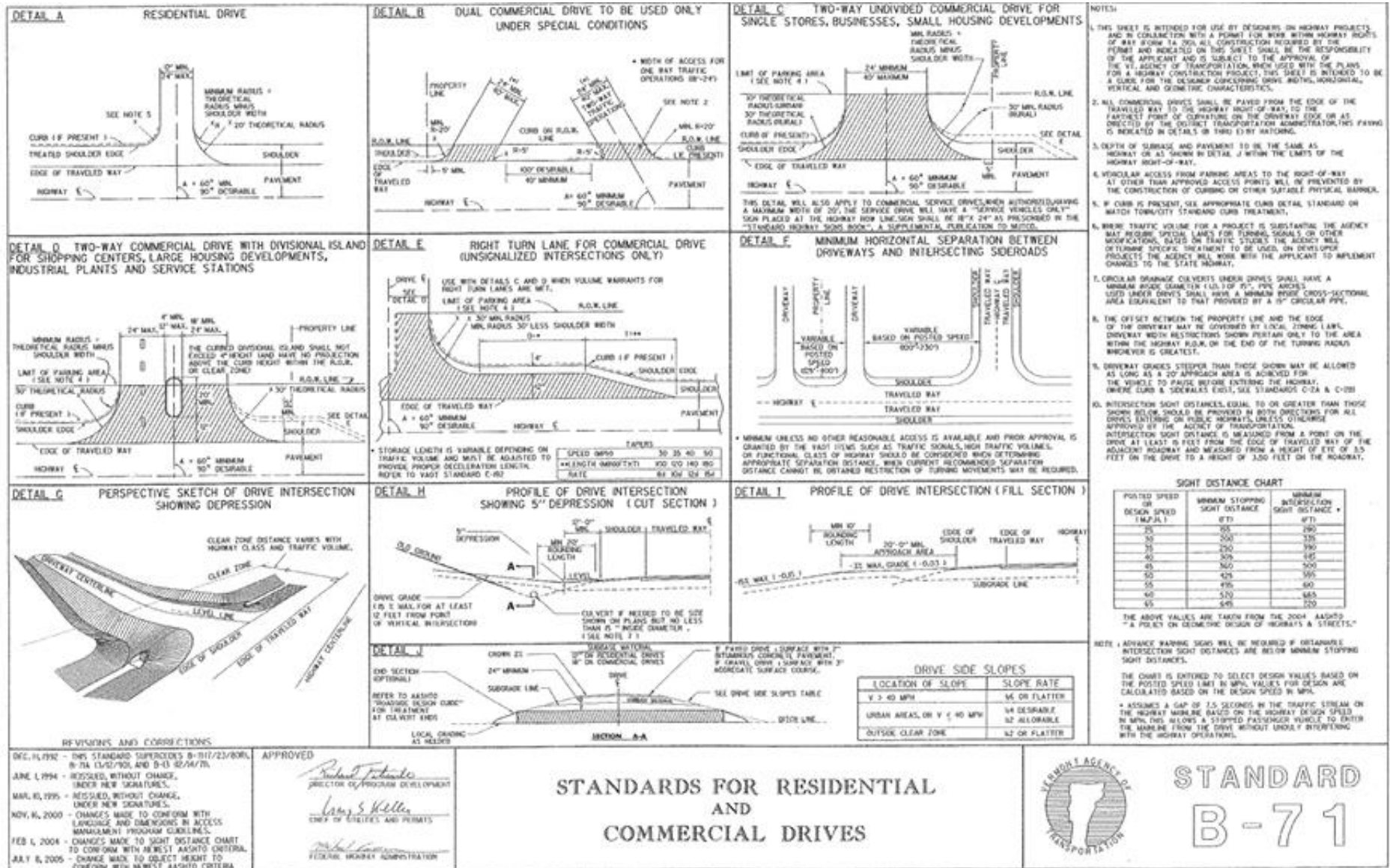
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# APPENDIX

## B-71 STANDARDS FOR RESIDENTIAL-COMMERCIAL DRIVES



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