

**TOWN OF WOLCOTT**  
**LAMOILLE COUNTY, VERMONT**

**ZONING REGULATIONS**  
ADOPTED: JULY 1, 1975  
MOST RECENTLY AMENDED: March 7, 2006

**SUBDIVISION REGULATIONS**  
ADOPTED: SEPTEMBER 9, 1988  
MOST RECENTLY AMENDED: March 7, 2006

**Prepared by: Wolcott Planning Commission**

**With assistance by: Lamoille County Planning Commission**

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TOWN OF WOLCOTT  
LAMOILLE COUNTY, VERMONT

**ZONING REGULATIONS**

Bylaw Adoption History:

Adopted Interim Zoning Bylaws: July 1, 1975  
Amended: October 1976  
Extended: May 24, 1977  
Extended by Selectmen: June 28, 1977  
Adopted: March 7, 1978  
Amended Zoning Regulations: March 2, 1982  
Amended Zoning Regulations: March 3, 1987  
Amended Zoning Regulations: March 1, 1988  
Amended Zoning Regulations on an Interim Basis: August 9, 1988  
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Amended Zoning Regulations: June 28, 1991  
Amended Zoning Regulations: March 6, 2001  
Amended Zoning Regulations: March 7, 2006

# WOLCOTT ZONING REGULATIONS

## Foreword

The rural/agricultural town of Wolcott, as it exists today, is the result of changes that have occurred since it was founded in 1789. There have been periods of growth, decline and regrowth of its population accompanied by changes in occupations, farming, industries and other activities. These historic changes along with a description of land and water resources, economic development, housing, etc., and an associated list of goals and policies are outlined in the Wolcott Town Plan. This plan was revised in 2002 and reflects public input regarding these policies and goals. The Wolcott Zoning Bylaws are based on the town plan and state statutes. The purpose of these regulations is to guide growth through a planning process that:

- Protects the health, safety, and welfare of the public;
- Protects individual and public rights;
- Encourages the preservation of open areas by clustering development in subdivisions;
- Protects natural resources.

The revisions in 2004 reflected an interest in town to have additional districts that better represents the past development patterns and future growth trends. The new districts will both remove barriers to new development in areas where growth will have a positive impact on Wolcott and increase municipal oversight in areas where growth has a negative impact on the community as a whole. The regulations were also changed to include additional details on the process of permit review so that both the applicant and reviewer are aware of their rights and responsibilities. It is hoped that through these changes a fair and efficient permitting process can be attained that guides Wolcott towards a realization of the goals and policies as outlined in the town plan.

References to specific statutes are enclosed in brackets for easier reference to the source materials. Where only a number is present, the reference is to Title 24 of the Vermont Statutes Annotated (V.S.A.). For example [§4401(a)(1)] refers to Title 24 V.S.A. section 4401 subsection (a)(1). A copy of the Vermont Statutes is available at the Town Clerks Office. These have been provided for reference only. Only the written provisions of this bylaw are to be interpreted as a part of these regulations. Any errors or omissions that may exist should not be interpreted as having any impact on the intent of the provision.

## Section 1. - **INTRODUCTION**

### 1.01 Enactment

1. These zoning bylaws are set forth in this text and the official signed zoning map on record at the Wolcott Town Clerks Office. These bylaws are established as authorized in 24 V.S.A. §4402(1) and §4402(2) and have been enacted in accordance with the Vermont Planning and Development Act, Title 24 Vermont Statutes Annotated (V.S.A.), Chapter 117, (hereinafter called the "Act").

### 1.02 Establishment of the Official Zoning Map

1. The Official Zoning Map shall consist of the Town of Wolcott Zoning Map; the Town of Wolcott Flood Insurance Rate Maps hereafter referred to as the FIRM maps (published by the Federal Emergency Management Agency, hereafter FEMA); and the Town of Wolcott Flood Boundary and Floodway Maps, hereafter FBFM (published by FEMA).
  - a. The Official Zoning Map is hereby adopted by reference and declared to be part of this bylaw. Regardless of the existence of copies which may be made or published from time to time, the Official Zoning Map located in the Town of Wolcott Clerk's Office shall be the final authority as to the zoning status of all land and water areas in the Town of Wolcott. An unofficial reproduction of the Wolcott Zoning Map is included as an attachment to these bylaws (Attachment A).
  - b. The signature of the Selectboard, attested by the Town Clerk, shall identify the Official Zoning Map. No changes of any nature shall be made on the Official Zoning Map except in conformance with the formal amendment procedures and requirements set forth in the Act [§§4441, 4442].
  - c. The Flood Hazard Area district boundaries contained within the Official Zoning Map are unofficial reproductions of the FEMA FIRM and FBFM maps. The Flood Hazard Area provisions of this zoning bylaw shall apply to areas identified as areas of special flood hazard on the FEMA FIRM maps, dated August 2, 1982, or more recent revisions, and as a regulatory floodway on the FEMA FBFM maps, dated August 2, 1982, or more recent revisions, and further delineated in the Flood Insurance Study.

### 1.03 Areas and Activities covered by these bylaws

1. These bylaws shall apply to all areas within the Town of Wolcott [§4411(b)].
2. All development within the Town of Wolcott shall be in compliance with these bylaws [§4449(a)(1)].
  - a. Development includes, but is not limited to:
    - (1) The construction, reconstruction, conversion, alteration, relocation, or enlargement of any building or other structure including the replacement of a mobile home.
    - (2) Any mining, excavation or landfill.
    - (3) Any change in use of any structure or land or part thereof.
    - (4) Boundary line adjustments provided they do not constitute the creation of a new lot.

- b. Development does not include:
- (1) Normal maintenance and repair of an existing structure that does not result in any change to the footprint or height dimensions of the structure, an increase in wastewater generation, or a change in use.
  - (2) The internal alteration of existing structures that does not result in a change in the use or increase in wastewater generation.
  - (3) The external alteration of existing structures that does not result in any change to the footprint or height dimensions of the structure or a change in the use or character of the property.
  - (4) The construction of structures that do not exceed 150 square feet in floor area providing such structures meet setback requirements and are:
    - i. Unattached structures (such as sheds), or
    - ii. Non-residential additions to non-residential structures, or
    - iii. Additions to residential structures that are not to be used for living purposes, such as porches, decks, wood sheds, bulkheads, etc., and which do not require plumbing of any kind.
    - iv. Outside of the Flood Hazard Area Overlay District
  - (5) The demolition of structures.
  - (6) Grading and landscaping of land when:
    - i. The grading and landscaping is not associated with other development;
    - ii. Existing drainage patterns are not substantially altered on adjacent properties; and
    - iii. The creation of any pond or lake.
  - (7) Accepted agricultural and best management practices (AAPs, BMPs), including farm structures, as defined by the commissioner of Agriculture, Food, and Markets [§4413(d)]; however such practices shall meet setbacks required by these regulations, unless specifically waived by the Commissioner. Written notification, including a sketch plan showing the proposed structure and associated setback distances from road rights-of-way, property lines, and surface waters, and any waiver from the state shall be made to the Zoning Administrator prior to construction, as required under the AAPs.
  - (8) Accepted management practices for silviculture or forestry as defined by the Commissioner of Forests, Parks, and Recreation [§4413(d)].
  - (9) Power generation and transmission facilities that are regulated under 30 V.S.A. §248 by the Vermont Public Service Board.
  - (10) Hunting, fishing, and trapping as specified under 24 V.S.A. §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities.

#### 1.04 Intent

The intent of these bylaws is to detail the simplest possible procedures that will allow the town to develop in the manner that is consistent with the general policies outlined in the Wolcott Town Plan, the above foreword, and to further the purposes established in the Act [§4302].

#### 1.05 Effective Date

These bylaws shall take effect immediately following a vote by Australian Ballot by the registered voters of Wolcott [§4442(c)(1)].

1.06 Interpretations and Effect

These bylaws shall not repeal, abrogate, or impair any other land use controls including but not limited to statutes, regulations, rules, ordinances, permits, easements, deed restrictions, and covenants. These bylaws, however, shall be minimum requirements and shall therefore take precedence over any concurrent less restrictive controls [§4413(c)].

The issuance of any permit under these bylaws shall not relieve the applicant from the obligation of obtaining any necessary approvals by federal or state law.

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

1.07 Severability

The provisions of these bylaws are severable. If a court of competent jurisdiction holds any provision or the application thereof to any person or circumstance unconstitutional or invalid, the remainder of these bylaws shall not be affected.

1.08 Amendment

These bylaws may be amended according to the requirements and procedures established in the Act [§4441-4442].

## Section 2. – **ADMINISTRATION, APPEALS, AND ENFORCEMENT**

### 2.01 Zoning Administrator

1. These bylaws shall be administered by the Zoning Administrator [§4448(a)].
2. The Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard for a three-year term. The Zoning Administrator may be removed from office for just cause by the Selectboard after consultation with the Planning Commission [§4448(a)].
3. In the absence or disability of the Zoning Administrator, an acting Zoning Administrator shall be appointed and empowered in the same manner as provided above [§4448(b)].
4. The Zoning Administrator may hold any other office in the municipality except for membership on the DRB. Salary for the Zoning Administrator shall be paid out of the General Fund in an amount and schedule established by the Selectboard [§4448(a)].
5. The Zoning Administrator shall manage and enforce these bylaws literally and shall not have the power to permit any development that is not in conformance with these bylaws [§4448(a)].
6. The Zoning Administrator shall have the power to hear and decide applications for permitted uses under section 3.01 of these bylaws [§4449(a)(1)].
7. The Zoning Administrator shall investigate complaints and has the power to pursue violations of these bylaws through procedures set forth under section 2.05 of these bylaws [§4452].
8. The Zoning Administrator should provide forms required to obtain any municipal permit or other municipal authorization required under this bylaw or any other regulations or ordinances that relate to the regulation of development within the Town of Wolcott [§4448(c)].
9. The Zoning Administrator should inform any person applying for a zoning permit that the person should contact the regional permit specialist in order to identify, apply for, and obtain relevant state permits [§4448(c)].
10. The Zoning Administrator shall meet the recording requirements of section 2.07 of these bylaws [§4449(b-c)].

### 2.02 Development Review Board

1. The Development Review Board (hereinafter referred to as “the DRB”) shall not consist of less than five (5) or more than nine (9) members whose members shall be appointed by the Selectboard for specified terms. The Board may consist of the members of the Planning Commission. Vacancies shall also be filled by appointment of the Selectboard for unexpired terms and upon the expiration of terms. The Selectboard upon written charges and after a public hearing may remove any member of the DRB for just cause. [§4460(b-c)]
2. The DRB shall have all powers set forth in the Act to administer the provisions of these bylaws including, but not limited to, the power to:
  - a. Consider applications for conditional use approval under section 3.02 of these bylaws

[§4460(e)(4)].

- b. Consider applications for site plan approval under section 3.03 of these bylaws [§4460(e)(7)].
  - c. Consider requests for a Planned Unit Development under section 3.04 of these bylaws [§4464(e)(5)].
  - d. Consider requests for a variance under section 3.05 of these bylaws [§4464(e)(11)].
  - e. Consider decisions of the Zoning Administrator upon appeal under section 2.03 of these bylaws [§4464(e)(10)].
- 3. The DRB shall adopt rules of procedure and perform its functions in conformance with the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A. §§310-314].
  - 4. The DRB shall meet all relevant recording requirements of section 2.07 of these bylaws.

#### 2.03 Appeals- Decisions of the Zoning Administrator

- 1. The applicant or an interested person may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the DRB within 15 days of the act or decision [§4465].
- 2. Notice of Appeal Requirements: A notice of appeal shall be in writing and include [§4466]:
  - a. The name and address of the appellant.
  - b. A brief description of the decision or act with respect to which the appeal is taken.
  - c. A reference to applicable bylaws provisions.
  - d. The relief requested by the appellant.
  - e. The alleged grounds why such relief is believed proper under the circumstances.
- 3. Rejection of Notice of Appeal: The DRB may reject an appeal without hearing and render a decision and findings of fact within ten (10) days of the filing of the notice of appeal, if the DRB considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by said appellant [§4470(a)].
- 4. Public Hearing: Within sixty (60) days of receiving a notice of appeal, the DRB shall hold a public hearing. [§4468]
  - a. Public notice for any hearing shall be given by publication of the date, place, and purpose of such hearing in [§§4464, 4468]:
    - (1) a newspaper of general circulation in the Town;
    - (2) a mailing of such notice to the appellant;
    - (3) a posting of such notice in three or more public places within the municipality including;

- i. the Town Clerks Office; and
  - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made; and
- (4) written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
- b. The public notice of the appeal shall not be given less than 15 days prior to the date of the hearing [§4464(a)(1)].
- c. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The appellant is required to bear the cost of the public warning including administrative costs.
- d. Any interested person (as defined in Section 7) may appear and be heard in person or be represented by agent at the public hearing [§4468].
- e. All hearings of an appeal shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies [§4468]. These include:
  - (1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence in civil cases in the Vermont superior courts shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offerings may be made and shall be noted in the record.
  - (2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given the opportunity to compare the copy with the original.
  - (3) A party may conduct cross examinations required for a full and true disclosure of the facts.
  - (4) Facts and information understood by members of the board may be presented as evidence. (3 V.S.A. §810)
- f. In most cases the Zoning Administrator is the defendant in the appeal before the DRB. In those cases the Zoning Administrator must not act as a staff member during the hearing or deliberations.
- g. Any hearing may be recessed by the DRB, pending submission of additional information, from time to time provided, however, that the date and place of the hearing shall be announced at the hearing [§§4468, 4464(b)(1)].
- 5. Decision: The DRB should close the hearing promptly after all parties have submitted requested information. The DRB decision shall be issued within forty-five (45) days of completing the hearing. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a

decision within the required period shall be deemed approval. [§4464(b)(1)]

In rendering a decision in favor of the applicant, the DRB may attach reasonable conditions and safeguards, as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan then in effect. [§4464(b)(2)]

Copies of any DRB decision shall be sent to the appellant and applicant (both by certified mail) every person or party who was heard at the hearing. [§4464(b)(3)]

6. Appeals: Appeals of the decision of the DRB may be made to the Environmental Court, as per section 2.04, within thirty (30) days of the date of decision [§4471].
7. Posting and Recording Requirements: The DRB shall file its decision with the Zoning Administrator, for posting and filing in the land use records, and the Town Clerk for filing as part of the public record [§4464(b)(3)]. All posting and recording shall be in compliance with section 2.07.

#### 2.04 Appeals of DRB Decisions

1. An interested person who has participated in the local regulatory proceeding under these bylaws may appeal a decision of the DRB to the Environmental Court [§§4471]. 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. Appeals to the Environmental Court must be taken in accordance with the provision of V.R.C.P 76a and V.R.A.P. 3 and 4
2. Initiation of Appeal: Within thirty (30) day [V.R.A.P. 4] following the date of decision rendered by the DRB, notice of the appeal shall be filed by certified mail with fees to the environmental court and mailing a copy to the municipal clerk or 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 interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene [§4471(c)].
3. Notice of Appeal Requirements: A notice of appeal shall be in writing and include [§4471]:
  - a. The name of the party appealing.
  - b. What board made the decision being appealed (e.g. the DRB).
  - c. The nature of the decision under appeal (e.g. conditional use determination, site plan approval, variance request, appeal of Zoning Administrator decision).
  - d. A reference to the specific provisions of the bylaw.
  - e. The relief requested by the appellant.
  - f. The signature of the appellant or attorney.
4. Filing Fee: The filing fee is established by V.R.C.P. 76 (e). At the time of the development of these bylaws, the fee for filing an appeal with the Environmental Court is \$150.

## 2.05 Violations and Enforcement

1. The commencement or continuation of any development, which is not in conformance with the provisions of these bylaws, shall constitute a violation. Violations of these bylaws shall be prosecuted in accordance with the Act [§§4451, 4452].
2. Identification and Investigation of Violations: The Zoning Administrator is required by law to enforce all violations of these bylaws [§4448(a)]. Whether through direct observation, written or oral complaint, site visit, or notification of violation from the landowner, the discovery of an alleged violation must be pursued by the Zoning Administrator.
  - a. Any person may file a written complaint with the Zoning Administrator if it is believed that a violation of these bylaws has occurred. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, investigate within a reasonable time, and take action as appropriate in accordance with these bylaws.
  - b. The Zoning Administrator may not enter upon any private property, for purposes of inspection and investigation, except by permission of the landowner or per a search warrant duly issued by a court [13 V.S.A. §4701].
3. Formal Notice of Violation: No action may be brought under this section unless the alleged offender has had at least seven (7) working days notice by certified mail that a violation exists and has failed to satisfactorily respond or correct the alleged violation [§4451(a)].
  - a. The warning notice shall state:
    - (1) That a violation exists;
    - (2) That the alleged offender has an opportunity to cure the violation within the seven (7) day period;
    - (3) That the alleged offender has the right to appeal the notice of violation to the DRB within fifteen (15) days from the date the notice was sent; and
    - (4) That the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) day period.
  - b. Action may be brought without notice and opportunity to cure, if the alleged offender repeats the violation of the bylaw after the seven (7) day notice period and within the next succeeding twelve (12) months.
4. Informal Resolution of Violations: Following the filing of a notice of violation but where a landowner is cooperating with the Zoning Administrator in rectifying a violation, the Zoning Administrator has the authority to enter a written agreement to resolve the violation. The Zoning Administrator, however, is under no obligation to enter any agreement.
  - a. At minimum, any agreement must:
    - (1) Be in writing and be signed by both the offender and Zoning Administrator.
    - (2) Establish a timeline for curing the violation.
    - (3) Give written authorization that will allow the Zoning Administrator to inspect the premises to ensure compliance upon completion or by the agreed upon date of completion.

- b. The Zoning Administrator is prevented from making any agreement allowing a violation to continue in perpetuity, even if the violation is minimal, inadvertent, and/or the offender agrees to pay a fine [§4448(a)].
5. Enforcement Action: Where a property owner fails to remedy a violation within the seven (7)-day period or the timetable agreed to under an informal resolution, the Zoning Administrator, in the name of the municipality, shall bring appropriate action to enforce the provisions of these bylaws [§4452]. The appropriate action is typically an action in either Environmental or Superior Court although other actions are available.
6. Limitations on Enforcement: The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454] including the following:
  - a. An enforcement action relating to any zoning permit must be instituted within fifteen (15) years of the date the alleged violation first occurred and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
  - b. No action, injunction, or enforcement proceeding may be instituted to enforce an alleged violation of a zoning permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the zoning permit or a notice of the permit was recorded in the land use records of the municipality as required by the Act [§4454(b)].
  - c. Nothing in the section shall prevent any action, injunction, or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to a municipality's authority under Title 18 relating to the abatement and removal of a public health risk or hazard [§4454(c)].
7. Fines: Any person who violates these bylaws shall be fined not more than the amount permitted under the Act [§4451(b)], which at the time of development of these bylaws is \$100. Each day that a violation is continued after the initial seven (7) day notice period shall constitute a separate offense. All fines imposed and collected shall be paid to the Town of Wolcott.
8. Posting and Recording Requirements. The Zoning Administrator shall meet all posting and recording requirements of section 2.07 regarding notices of violation.

## 2.06 Fees

1. The Selectboard may prescribe reasonable fees to be charged with respect to the administration of these regulations and for the administration of development review. These fees may include the cost of posting and publishing notices and holding public hearings and the cost of conducting periodic inspections during the installation of public improvements. These fees may be payable by the applicant upon submission of the application or prior to issuance of the permit [§4440(b)].
2. The Selectboard may set reasonable fees for filing of notices of appeal and for other acts as it deems proper, the payment of which shall be a condition for filing the notice [§4440(c)].

3. The fee schedule may include a process and provisions that require applicants to pay for reasonable costs of an independent technical review of their applications [§4440(d)].
4. An applicant may be charged the cost of the recording fees as required by law [§4449(c)(2)].
5. The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

## 2.07 Posting and Recording Requirements

1. Posting: Within three (3) days following the issuance of a zoning permit, the Zoning Administrator shall post a copy of the permit in the Town Clerk's Office until the expiration of the appeal period [§4449(b)(2)]. Notice must also be posted within view of the public right of way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period [§4449(b)] and information as to where a full description of the project and approval can be found.
2. Recording with the Listers: Within three (3) days following the issuance of a zoning permit the Zoning Administrator shall deliver a copy of the permit to the Town Listers [§4449(b)(1)].
3. Recording Permits with the Town Clerk: Within thirty (30) days after the issuance of any of the items listed below, the Zoning Administrator shall deliver the original, or a legible copy, of the issuance to the Town Clerk for recording in the municipal land records [§4449(c)(1)].
  - a. The following issuances are covered in this subsection:
    - (1) Letters approving or denying exemptions under section 3.01(2);
    - (2) Zoning permits including all associated approvals (such as conditional use, site plan, and variances);
    - (3) Decisions of any appeals;
    - (4) Notices of violation; and
    - (5) Notices of denial of an application. [§4449(c)(1)(A)]
  - b. Temporary permits issued under these bylaws are not required to be recorded [24 V.S.A. §1154(b)].
  - c. Any issuance delivered for recording shall list:
    - (1) As grantor, the owner of record title to the property at the time of issuance;
    - (2) As grantee, the municipality issuing the permit, certificate, or notice – i.e. *the Town of Wokott*;
    - (3) The municipal office where the original, or a true, legible copy of the issuance may be examined;
    - (4) Whether an appeal of such issuance was taken; and
    - (5) The tax map lot number or other description identifying the lot [24 V.S.A. §1154(c)].
4. Recording DRB Minutes and Findings with the Town Clerk: The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions. For each case heard and decided, the DRB shall make written findings of fact and conclusions of law that shall be maintained in the Town Clerk's Office together with all minutes and other records of the DRB [§4461(a)].

5. Zoning Administrator records: The Zoning Administrator shall maintain a record of development including:
- a. A file of a copy of any municipal permits that have been submitted to the Town Clerk for recording in the land records, in a location where all municipal land use permits shall be kept [§4449(c)(1)(B)].
  - b. Copies of all evidence presented, public notices, hearing minutes, findings of fact and other material collected by the Zoning Administrator or DRB in the process of reviewing an application.
  - c. All temporary permits issued or denied under these bylaws. The Zoning Administrator must keep a copy of all temporary permits for a period of one (1) year following the expiration of said permit.
  - d. For any permits issued within the Flood Hazard Area Overlay District:
    - (1) A record of all permits issued for development in areas of special flood hazard;
    - (2) A copy of the elevation certificate;
    - (3) All floodproofing certifications required under this regulation; and
    - (4) All variance actions, including justification for their issuance.

### Section 3. – **PERMITS AND DEVELOPMENT REVIEW PROCEDURES**

#### 3.01 Zoning Permit

1. No development may be commenced without a zoning permit issued by the Zoning Administrator.
2. Applicant. All owners of the property on which the proposed development will occur must be the applicant or a co-applicant for a zoning permit.
3. Application requirements: An application for a zoning permit shall be submitted to the Zoning Administrator along with the permit fee and all other approvals required by these regulations.
  - a. Permit applications in the Flood Hazard Area Overlay District shall, in addition to the information required above, include the following:
    - (1) A sketch map showing the distance of all features of the proposed land development from the nearest flooding water body and from the nearest boundary of the Flood Hazard Area Overlay District.
    - (2) All existing and proposed grade elevations.
    - (3) The elevation, in relation to mean sea level, of the lowest floor, including the basement, of any new or substantially improved structures.
    - (4) When applicable, the elevation to which any new or substantially improved structures will be flood-proofed.
    - (5) Either a determination by the State of Vermont Floodplain Coordinator or certification from a registered professional engineer or architect that the flood-proofed structure meets the flood-proofing criteria of these regulations.
4. Application deemed received: The Zoning Administrator shall, upon receipt, review the application to determine completeness. A complete application will include sufficient information for the Zoning Administrator to make a determination of compliance and any applicable fees.
  - a. If the Zoning Administrator finds the application incomplete, the Administrator shall, within ten (10) days after receipt, notify the applicant in writing of all additional information or fees required.
  - b. If the Zoning Administrator finds the application complete, the Administrator shall record on the application the date on which the application was received.
5. District and use determination. The Zoning Administrator shall determine:
  - a. The district or districts in which the proposal is located [Subsection 4.01].
  - b. Whether the proposal requires DRB approval [Subsection 4.02].
6. Zoning Administrator Action: Within thirty (30) days after the submission of a complete application and fees, the Zoning Administrator must act on the permit [§4448(d)]. Acting on the permit involves a documented action on the proposal. The Zoning Administrator may:
  - a. Determine that the application is exempt from these bylaws.

- b. Determine that the proposed use does not require DRB review and, therefore, decide to approve or deny the permit based on the standards discussed below (section 3.01(10)).
  - c. Determine that the proposed use requires DRB approval and refer the application to the clerk of the DRB for consideration.
- 7. Deemed approved: If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day [§4448(d)].
- 8. General Standards for Permitted Uses: When determining the appropriateness of a proposed permitted use, the Zoning Administrator shall determine:
  - a. That proposed development meets the general permit review criteria of Subsection 4-A.
  - b. That proposed development meets parking and loading requirements of Subsection 4-B.
- 9. Specific use standards: Where specifically defined, a proposed permitted use must meet specific use standards established in Section 5.
- 10. Decisions: A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act [§4449(a)(1)] and these bylaws.
  - a. If in the opinion of the Zoning Administrator, the proposal as set forth in the application is in conformance with the provisions of these bylaws, the Zoning Administrator shall approve the zoning permit. If the permit is approved, the Zoning Administrator shall notify the applicant, in writing, of the approval stating the effective date of the permit.
  - b. If in the opinion of the Zoning Administrator, the proposal as set forth in the application is not in conformance with the provisions of these bylaws, the Zoning Administrator shall deny the zoning permit. If the permit is denied, the Zoning Administrator shall notify the applicant in writing, stating the reasons for denial and shall contain a statement of the period of time within which an appeal may be taken.
  - c. No zoning permit shall be issued by the Zoning Administrator until all local permits and required approvals from the DRB, Selectboard, Health Officer, and/or any other local approval has been properly decided.
  - d. Each zoning permit issued shall contain a statement of the period of time within which an appeal may be taken [§4449(b)].
- 11. Effective Date: No permit shall take effect until the time for appeal has passed. In the event an appeal is filed, the permit shall not take effect until the DRB has heard the appeal and decided that the permit should be issued, whereupon it shall take effect after final adjudication of said appeal [§4449(a)(3)].
  - a. The effective date of permits which did not require DRB approval or a decision on appeal is fifteen (15) days from the date of issuance of the zoning permit.

- b. The effective date of permits which required DRB approval or involved an appeal of a decision of the Zoning Administrator is thirty (30) days from the decision of the DRB or fifteen (15) days from the issuance of the zoning permit, whichever date is latest.
- 12. Appeals: Appeals from the decisions of the Zoning Administrator may be made to the DRB, as per section 2.03 of these bylaws, within fifteen (15) days of the decision or act. [§4465(a)]
- 13. Permit Expiration: All development must be completed within a period of 12-months from the effective date of the permit unless the deadline is altered below. A permit in which the deadline has lapsed without completion shall be deemed expired and may be subject to enforcement action.
  - a. The DRB may set the expiration date of a permit beyond 12-months as a condition of approval for certain staged developments.
  - b. A one-year extension may be granted if active construction has continued for, but has not been completed within, the initial 12-month period. The Zoning Administrator, upon written request prior to the expiration date, may extend the zoning permit and associated approvals for a period not to exceed one year without further review or hearings.
  - c. Reapplication for a new zoning permit including all associated approvals is required for incomplete development where the permit has expired. If appropriate, the Zoning Administrator may find the incomplete development in violation of these regulations and action may be taken.
  - d. Any zoning permit issued based on material inaccuracies or misrepresentations in an application or in any supporting documentation to an application shall be null and void; and any associated development activity commenced under such permit shall constitute a violation of these regulations subject to enforcement.
  - e. Unless expressly stated otherwise, all valid permits shall run with the land, valid for and binding upon any heir, assign, or successor whom gains an undivided interest in the property.
  - f. A permit for a use that has been abandoned is not a valid permit.
- 14. Posting and Recording Requirements: The Zoning Administrator shall meet the posting and recording requirements of section 2.07.

### 3.02 Conditional Uses

- 1. A zoning permit for any use or structure that requires conditional use approval as defined for the district in Section 6 shall not be issued by the Zoning Administrator until the DRB grants such approval.
- 2. Purpose: The purpose of a conditional use is to extend the development options of all property owners within a particular zoning district without causing undue impact upon other property owners or violating the purpose of the districts as stated in Section 6 of these bylaws.
- 3. Application Procedure: In addition to material presented for zoning permit [section 3.01(4)] the applicant shall submit additional information as required by the DRB.

4. Public Hearing: A public hearing after public notice shall be held by the DRB at the earliest available meeting to determine whether the proposed use conforms to the general and specific standards for conditional uses in these regulations [§4464(a)(1)].
  - a. Public notice for any hearing shall be given by publication of the date, place, and purpose of such hearing in [§4464]:
    - (1) a newspaper of general circulation in the Town;
    - (2) a mailing of such notice to the applicant;
    - (3) a posting of such notice in three or more public places within the municipality including;
      - i. the Town Clerks Office; and
      - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made; and
    - (4) written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
  - b. The public notice of the hearing shall not be given less than 15 days prior to the date of the hearing [§4464(a)(1)].
  - c. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The applicant is required to bear the cost of the public warning including administrative costs.
  - d. All hearings regarding a conditional use application are open to the public. [§4461(a)]
  - e. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in section 7) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons. [§4461(b)]
  - f. Any hearing may be recessed by the DRB, pending submission of additional information, from time to time provided, however, that the date and place of the hearing shall be announced at the hearing [§4464(b)(1)].
5. General and Specific Standards: Once a proposal is referred to the DRB, the Board reviews all criteria (General regulations, parking and loading (if site plan is not required), and conditional use). When determining the appropriateness of a proposed conditional use, the DRB shall determine:
  - a. The development meets the general regulations in Subsection 4-A.
  - b. That the proposed development meets parking and loading requirements of Subsection 4-B.
  - c. The development or use will not adversely affect any of the general conditional use

standards described under Subsection 4.30 [§4413(3)]:

- (1) The capacity of existing or planned community facilities.
  - (2) The character of the area affected.
  - (3) Traffic on roads and highways in the vicinity.
  - (4) Bylaws now in effect.
  - (5) Utilization of renewable energy resources.
- d. The development or use will not adversely affect any of the specific conditional use standards described under Subsection 4.31:
- (1) The capacity of the site to support the proposal.
  - (2) Scenic, natural or irreplaceable areas.
  - (3) Water and air quality.
6. Specific Use Standards: Where applicable, a proposal must meet the standards as established in Section 5 of these bylaws.
7. Decision: The DRB should close the hearing promptly after all parties have submitted requested information. The DRB decision shall be issued within forty-five (45) days of completing the hearing. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed approval. [§4464(b)(1)]
- Copies of any DRB decision shall be sent to the applicant (by certified mail) and to every person or party who was heard at the hearing. [§4464(b)(3)].
8. Conditions of Approval: In rendering a decision in favor of the applicant, the DRB may attach reasonable conditions and safeguards, as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan then in effect. [§4464(b)(2)]
- a. Increasing the required parcel size or yard dimensions in order to protect adjacent properties.
  - b. Limiting lot coverage or height of buildings because of undue obstruction to view and reduction of light and air to adjacent property.
  - c. Controlling the location and number of vehicular access points to the parcel to minimize traffic hazards.
  - d. Increasing the road width (with approval of Selectboard for public highways).
  - e. Increasing the number of off-street parking or loading spaces required.
  - f. Requiring measures to minimize the adverse effects of land alterations on soil erosion, water quality, and scenic beauty as may be recommended by the county forester, Natural Resource Conservation Service, district highway engineer, and other experts;
  - g. Requiring suitable landscaping or screening where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;
  - h. Limitations on the hours of operation or levels of daily truck traffic permissible.

- i. Specifying a time limit for construction of improvements to land or structures, including conditions to phase residential developments to minimize the impact on schools and other community facilities and services;
  - j. Requiring a performance bond from the applicant to ensure that the project is constructed and maintained in compliance with the permit and these regulations;
  - k. Any additional conditions and safeguards that the DRB deems necessary to implement the purposes of the Act, the Wolcott Town Plan, or these zoning bylaws; and
  - l. For development in the Flood Hazard Areas, such additional reasonable conditions as the DRB may deem necessary to implement the above measures, including a condition that all appropriate State and Federal permits be obtained.
- 9. Appeals: Appeals of the decision of the DRB may be made to the Environmental Court, as per section 2.04, within thirty (30) days of the date of decision [§4471].
  - 10. Permit issuance: The DRB shall forward its decision to the Zoning Administrator with instructions to issue or not issue the zoning permit.
  - 11. Posting and Recording Requirements: The Zoning Administrator shall meet the posting and recording requirements of section 2.07.

### 3.03 Site Plan Approval

- 1. In any district, the Zoning Administrator shall not issue a permit until site plan approval is granted by the DRB. Unless exempted herein, all development requires site plan approval. [§4416]
- 2. Exemptions: No site plan approval shall be required for the following:
  - a. Single-family dwellings.
  - b. Two-family dwellings.
  - c. Accessory apartments.
  - d. Home occupations.
  - e. Accessory structures to residential uses.
- 3. Purpose: Site plan review is required in order to ensure that a project will be of high quality, have an attractive and functional site design, and that the overall building and site design is consistent with the purpose and character of the district within which it is located.
- 4. Application Procedure: In addition to material presented for zoning permit [section 3.01(4)], the applicant shall submit additional information as required by the DRB.
- 5. Public hearing: A public hearing shall be held by the DRB at the earliest available regular or special meeting after the time of referral by the Zoning Administrator of a complete application for site

plan approval. [§4464(a)(2)]

- a. Public notice for the hearing shall be given not less than seven (7) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public notice shall be: [§4464(a)(2)]:
    - (1) a mailing of such notice to the applicant; and
    - (2) a posting of such notice in three or more public places within the municipality.
    - (3) written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
  - b. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The applicant is required to bear the cost of the public warning including administrative costs.
  - c. All hearings regarding site plan approval are open to the public. [§4461(a)]
  - d. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in section 7) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons. [§4461(b)]
  - e. Any hearing may be recessed by the DRB, pending submission of additional information, from time to time provided, however, that the date and place of the hearing shall be announced at the hearing [§4464(b)(1)].
6. General Standards: Once a proposal is referred to the DRB, the Board reviews all criteria (general regulations, parking and loading, and site plan approval). When determining the appropriateness of a proposed site plan, the DRB shall determine:
- a. The development meets the general regulations in Subsection 4-A.
  - b. That proposed development meets parking and loading requirements of Subsection 4-B.
  - c. The development or use has adequate landscaping and screening as described under Subsection 4-D [§4416]:
7. Specific Use Standards: Where applicable, a proposal must meet the requirements identified in Section 5 of these bylaws.
8. Decision: The DRB should close the hearing promptly after all parties have submitted requested information. The DRB decision shall be issued within forty-five (45) days of completing the hearing. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed approval. [§4464(b)(1)]

Copies of any DRB decision shall be sent to the applicant (by certified mail) and to every person or party who was heard at the hearing. [§4464(b)(3)].

9. Conditions of Approval: The DRB shall have the power to impose reasonable conditions and safeguards to ensure the safety and general welfare with respect to the adequacy of traffic access and safety, circulation and parking, and landscaping and screening when approving site plan applications including, but not limited to:
  - a. The DRB can require shared access to adjoining properties or may limit access to the property to a side street or secondary road.
  - b. Where only a portion of a property is proposed for development, the DRB can require an applicant to submit a master plan showing how future development of the remainder of the property will be accessed and serviced.
  - c. The DRB can require screening of parking from adjacent uses and from roadways in the vicinity.
  - d. The DRB can require additional site design to mitigate storm water runoff and erosion control.
  - e. The DRB can require provisions for pedestrian trails and walkways along waterways or other natural features.
  - f. The DRB has the power to limit the size and location of any parking or loading areas.
  - g. The DRB can require the cost of planting to equal up to 3 percent of the estimated total cost of the development.
  - h. The owner or developer can be required to provide a suitable performance bond or other form of security to guarantee the performance and completion of all improvements required pursuant to this section. The amount and form of such surety shall be subject to the approval of the Wolcott Selectboard previous to final Site Plan Approval.
10. Appeals: Appeals from the decisions of the DRB may be made to the Environmental Court, as per section 2.04 of these bylaws, within thirty (30) days of the decision. [§4471]
11. Permit issuance: The DRB shall forward its decision to the Zoning Administrator with instructions to issue or not issue the zoning permit.
12. Posting and Recording Requirements: The Zoning Administrator shall meet the posting and recording requirements of section 2.07.

#### 3.04 Planned Unit Development Approval

1. In any district, the Zoning Administrator shall not issue a permit for the creation of a planned unit development or for the development of a structure or use within a PUD until approval is granted by the DRB.

- a. No subdivision plat shall be approved for a PUD without meeting the provisions within this section and all other applicable subdivision plat requirements.
  - b. The subsequent development of lots within a PUD shall be regulated through the normal permit process as prescribed for the district in which the structure or use is located unless development requires flexibility in the placement of structures or uses as well (i.e. flexibility with respect to setbacks and other dimensional requirements). Where the proposed location of a structure will not meet minimum standards of these bylaws, the DRB must approve the location of the structure. It is recommended but not required that an application for plat approval be conducted simultaneous to any approvals for the use of said lots. [§4417]
2. Purpose: Planned Unit Developments (PUDs) are encouraged in order to allow flexibility in design and unified treatment of the development site; to promote efficient use of land; to facilitate the efficient and economical provision of streets and utilities; and to conserve the natural resources and scenic qualities of the Town. Accordingly, the DRB may modify the area and dimensional requirements of these regulations simultaneously with site plan approval. Such modifications shall be subject to the general and specific conditions and standards in this section and in the district regulations, where applicable. [§4417]
3. Application Procedure: In addition to material presented for subdivision plat approval and any zoning permits, conditional use reviews, and site plan reviews being pursued in connection with the PUD, the applicant shall submit 2 copies of the following information to the DRB:
  - a. A statement setting forth the nature of all proposed modifications of this bylaw and the proposed standards and criteria which the applicant proposes for the development, including standards for the design, bulk, and spacing of buildings and sizes of lots and open space.
  - b. Limits of use, if any.
  - c. Plans for the permanent maintenance and/or management of open space areas included within the development.
  - d. Any other information which the DRB requires to ensure that the provisions of these regulations are met.
4. Public hearing: A public hearing shall be held by the DRB at the earliest available regular or special meeting after the time of referral by the Zoning Administrator of a complete application for a planned unit development. [§4464(a)(2)]
  - a. Public notice for the hearing shall be given not less than seven (7) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public notice shall be: [§4464(a)(2)]:
    - (1) a mailing of such notice to the applicant; and
    - (2) a posting of such notice in three or more public places within the municipality.
    - (3) written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient

where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.

- b. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The applicant is required to bear the cost of the public warning including administrative costs.
  - c. All hearings regarding planned unit developments are open to the public. [§4461(a)]
  - d. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in section 7) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons. [§4461(b)]
  - e. Any hearing may be recessed by the DRB, pending submission of additional information, from time to time provided, however, that the date and place of the hearing shall be announced at the hearing [§4464(b)(1)].
5. General Standards: Once a proposal is referred to the DRB, the Board reviews all applicable criteria (General regulations, parking and loading, and site plan approval). When determining the appropriateness of a proposed planned unit development, the DRB shall determine:
- a. The development meets the general regulations in Subsection 4-A.
  - b. That proposed development meets parking and loading requirements of Subsection 4-B.
  - c. The development or use has adequate landscaping and screening as described under Subsection 4-D. [§4416]
  - d. The development meets standards established for the creation of a planned unit development as described under Subsection 4-E.
6. Specific Use Standards: Where applicable, a proposal must meet the requirements identified in Section 5 of these bylaws.
7. Decision: The DRB should close the hearing promptly after all parties have submitted requested information. The DRB decision shall be issued within forty-five (45) days of completing the hearing. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed approval. [§4464(b)(1)]
- Copies of any DRB decision shall be sent to the applicant (by certified mail) and to every person or party who was heard at the hearing. [§4464(b)(3)].
8. Conditions of Approval: The DRB shall have the power to impose reasonable conditions as are found in sections 3.03(9) and 3.02(8) as appropriate to the project.
9. Appeals: Appeals from the decisions of the DRB may be made to the Environmental Court, as per

section 2.04 of these bylaws, within thirty (30) days of the decision. [§4471]

10. Permit issuance: The DRB shall forward its decision to the Zoning Administrator with instructions to issue or not issue the zoning permit.
11. Posting and Recording Requirements: The Zoning Administrator shall meet the posting and recording requirements of section 2.07.

### 3.05 Variance

1. An applicant may receive relief from a provision of these zoning bylaws through the granting of a variance by the DRB. Variances may be granted for general structures, renewable energy structures, and to development standards for development in the flood hazard area - under separate criteria. Variances to allow uses that are not permitted or conditionally permitted in the applicable district are not permissible. [§4469]
2. Purpose: The purpose of a variance is to address a hardship, related to the physical characteristics of a particular lot, which hampers the owner from enjoying the same property rights accorded to others in the same zoning district. An applicant cannot request rights, which have not been accorded to all others in the same district. Therefore, in no case shall the DRB grant a variance for a use, which is not permitted or conditionally permitted in the applicable district. Because a variance results in a deviation from the Town Plan and bylaws, variances are allowed only in narrow circumstances.
3. Application: Variances are treated as appeals [§§4465, 4466], therefore a notice of appeal for a variance shall be filed in writing with the clerk of the DRB, or Town Clerk if no such secretary has been elected and include:
  - a. The name and address of the appellant.
  - b. A brief description of the property with respect to which the variance is requested.
  - c. A reference to applicable bylaws provisions for which relief is requested.
  - d. The nature of the relief requested by the appellant.
  - e. The alleged grounds why such relief is believed proper under the circumstances (i.e. how the proposal meets all requirements of this section).
4. Public Hearing: Following the receipt of the notice of appeal for a variance, the DRB shall set the date and place for a public hearing which shall be within sixty (60) days of the filing of the notice [§4468].
  - a. Public notice for any hearing shall be given by publication of the date, place, and purpose of such hearing in [§§4464, 4468]:
    - (1) a newspaper of general circulation in the Town;
    - (2) a mailing of such notice to the appellant;
    - (3) a posting of such notice in three or more public places within the municipality including:
      - i. the Town Clerks Office; and

- ii. Within view from the public right of way most nearly adjacent to the property for which the application is made; and
  - (4) written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
- b. The public notice of the appeal shall not be given less than 15 days prior to the date of the hearing [§4464(a)(1)].
- c. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The appellant is required to bear the cost of the public warning including administrative costs.
- d. Any interested person (as defined in Section 7) may appear and be heard in person or be represented by agent at the public hearing [§4468].
- e. All hearings of an appeal shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies [§4468]. These include:
  - (1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence in civil cases in the Vermont superior courts shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offerings may be made and shall be noted in the record.
  - (2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given the opportunity to compare the copy with the original.
  - (3) A party may conduct cross examinations required for a full and true disclosure of the facts.
  - (4) Facts and information understood by members of the board may be presented as evidence. (3 V.S.A. §810)
- f. Any hearing may be recessed by the DRB, pending submission of additional information, from time to time provided, however, that the date and place of the hearing shall be announced at the hearing [§§4468, 4464(b)(1)].
- 5. General Standards: There are two sets of criteria established by the Act [§4469] with regards to variances – general structures and renewable energy structures. Additional criteria are required for variance requests in the flood hazard area.
  - a. General structures. The DRB may render a decision in favor of the applicant only upon establishing **all** the facts, identified in Subsection 4.60 of these bylaws, in its decision.
  - b. Renewable energy structures. For a structure which is primarily a renewable energy resource structure, the DRB may render a decision in favor of the applicant only upon establishing

**all** the facts, identified in Subsection 4.61 of these bylaws, in its decision.

- c. Flood hazard area. For general or renewable energy structures in flood hazard area, the DRB may render a decision in favor of the applicant only upon establishing **all** the facts identified in Subsection 4.60 or 4.61, as applicable, **and** the additional requirements in Subsection 4.62 of these bylaws, in its decision.

6. Decision: The DRB should close the hearing promptly after all parties have submitted requested information. The DRB decision shall be issued within forty-five (45) days of completing the hearing. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed approval. [§4464(b)(1)]

In rendering a decision in favor of the applicant, the DRB may attach reasonable conditions and safeguards, as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan then in effect. [§4464(b)(2)]

Copies of any DRB decision shall be sent to the appellant and applicant (both by certified mail) every person or party who was heard at the hearing. [§4464(b)(3)]

7. Conditions of Approval: In rendering a decision in favor of an applicant for a variance, the DRB may attach such conditions to such variances as it may consider necessary and appropriate under the circumstances to implement the Act and/or the Town of Wolcott Municipal Development Plan as most recently adopted [§4469(c)]. Such conditions may include those in section 3.02(8) of these bylaws.

- a. For any variance issued within the flood hazard area, the permit shall state:
  - (1) This development is not in conformance with the Flood Hazard Area bylaws as established by the Town of Wolcott to protect the health, safety and welfare of the occupants and/or property. This development will be maintained at the risk of the owner.
  - (2) The issuance of this variance to develop in the flood hazard area will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and may increase risks to life and property in the event of a flood.

8. Appeals: Appeals of the decision of the DRB may be made to the Environmental Court, as per section 2.04, within thirty (30) days of the date of decision [§4471].

9. Posting and Recording Requirements: The DRB shall file its decision with the Zoning Administrator, for posting and filing in the land use records, and the Town Clerk for filing as part of the public record [§4464(b)(3)]. All posting and recording shall be in compliance with section 2.07.

## Section 4. – **GENERAL REGULATIONS AND REVIEW CRITERIA**

### Subsection 4-A - **General Permit Review Criteria**

#### 4.01 Determining District(s)

1. The district or districts that apply to a proposed development are determined by examination of the Official Zoning Map on record at the Town Clerks Office and by the district descriptions provided in Section 6 of these bylaws. When interpreting the boundaries of a district the following rules shall apply-
  - a. Boundaries indicated as following roads, transportation, or utility rights of way shall be construed to follow such centerlines. The abandonment of roads and/or rights of way shall not affect the location of boundaries.
  - b. Boundaries indicated as following lot lines shall be construed to follow such lot lines.
  - c. Boundaries indicated as following a watercourse shall be construed as following a watercourse at the deepest level.
  - d. Boundaries indicated as parallel to, or extensions of a feature in a, b, and c above, shall be so construed.
  - e. Boundaries of the designated flood hazard area shall be determined by scaling distances on the FIRM or FBFM maps, as appropriate.
    - (1) Where available, (i.e. Zones A, A1-A30, AE, and AH), the base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the Flood Insurance Study and accompanying maps (of most recent date) shall be used to administer the provisions of these regulations.
    - (2) In areas where base flood elevations and floodway limits have not been provided by the NFIP (i.e. Zone A) base flood elevation and floodway information available from State or federal agencies or other sources shall be obtained and reasonably utilized to administer the provisions of these bylaws.
2. When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the DRB shall interpret the district boundary.
  - a. Disputes over the exact location of Flood Hazard Area boundaries shall be resolved by the DRB based upon survey and/or other evidence including input from the State Department of Environmental Conservation.

#### 4.02 Determining Permitted and Conditional Uses

1. The Zoning Administrator must determine whether the proposed use meets the definition of that use in these bylaws and whether the use is considered a permitted or conditional use in the district in which it is located.
2. The provisions of the district within which the structure is being constructed or use being

proposed shall apply. If the structure or use is in more than one district then the stricter provision applies.

#### 4.03 Setback Requirements

1. Setback requirements: Unless exempted below, all structures shall conform to the minimum setback requirements of the district in which they are located. Setbacks are established in Section 6 for each district.
  - a. Road. Road setback requirements (as established by the district in which the lot's frontage is located) shall be applied from any public right-of-way, private street, or driveway easement (corner lots, therefore, must meet road setbacks on two roadways).
  - b. Other property line. Setback requirements from other property lines shall be applied from any property line not abutting a highway.
  - c. Lakes and ponds. Setbacks to lakes and ponds apply to all water bodies greater than 10 acres in size.
2. Measuring setbacks. The setback is a perpendicular line from a road, lot line, boundary or other designated feature, to the nearest part of a structure being examined. All distances are measured as a horizontal line.
  - a. Road. The setback shall be measured from the edge of the public right-of-way, private road, or driveway easement.
  - b. Lakes and ponds. Setbacks are measured from the mean high water mark for the water-body in question.
3. Structures exempt from setback requirements. Certain structures are exempt from meeting specified setback requirements.
  - a. Road. Structures such as driveways, electrical utility lines, signs, fences and other structures customarily allowed in road setback areas are exempt from the road setback requirement. Structures such as signs, fences, septic tanks and leach fields must still abide by right of way restrictions for the road on which they are located.

No development can be permitted within the town road right of way. The rights to develop these areas are owned by the Town and are under the control of the Selectboard. Proposals to develop within the road right of way must receive a variance from the DRB as well as a permit from the Selectboard. Permits cannot be granted, nor variances approved for development within the right of way of state highways. State highways are owned in fee by the state.
  - b. Other property line. Fences are exempt from 'other property line' setback requirements. Driveways and buried accessory structures such as septic tanks and leach fields are exempt from 'other property line' setbacks but must maintain a minimum 10 foot setback from property lines.
  - c. Lakes and ponds. Structures customary to lakes and ponds may be exempt from lake and

pond setback requirements such as paths, docks, and boat launches.

#### 4.04 Parcel Size and Density Requirements

1. Determining parcel size: Parcel sizes shall include the entire extent of the parcel including lands considered not developable such as wetlands and portions under rights of ways except that lands under public waters shall not be included in the parcel size. Any state highway and any Class 1, 2, 3, or 4 town highway shall be considered to subdivide a lot. Trails and private rights of way across properties shall not be considered to subdivide a parcel.
  - a. For new parcels, the parcel must meet the minimum parcel size for the district in which it is located unless it is part of a Planned Unit Development. Parcels in two or more districts must contain suitable land in respective districts to meet density requirements below for at least a single-family dwelling.
2. Density requirements: All residential uses must not exceed maximum allowable densities for the parcel based on the district(s) in which they are located. Densities are established in Section 6 for each district.
3. Calculation of density: For purposes of density, the number of dwelling units permissible shall be the sum of the permissible units in each district of the entire parcel. All sums are rounded down. For example, a parcel with 7.2 acres in rural residential (2 acre density) will have 7.2 acres divided by 2 acres per unit for a total of 3.6 units rounded down to 3 unit. These units may be constructed in either district provided it is a permissible use within that district (a three unit apartment, subdivide to create three lots with a single family dwelling on each provided each new lot meets the density requirements, etc).
4. Shifting density between non-contiguous parcels. Where an individual owns two non-contiguous parcels within the Town of Wolcott, the owner may, with approval of the DRB, move the density from one parcel to another provided the following is met:
  - a. The project is part of a PUD.
  - b. Density can only shift from lower to higher density (or to the same density).
  - c. The shifting of density is clearly reflected in the deeds of each parcel.

#### 4.05 Frontage Requirements

1. No development is permitted on parcels that do not have frontage on a public road [§4412(3)]. Minimum frontage is established in Section 6 for each district. Existing lots that do not meet minimum frontage are treated as non-conforming lots under section 4.10 of these bylaws.
2. Measuring frontage. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Frontage is measured along the edge of the traveled portion of the roadway in question.
3. Existing lots without frontage. Permits may be granted for land that does not have frontage on a public road or public waters, provided access is available by a permanent easement or right-of-way. The required easement or right-of-way shall be at least fifty (50)

feet in width for any such land-locked parcels. Where a right-of-way is proposed to provide access to an existing land locked parcel, the right of way must be created through subdivision plat approval [§4412(3)].

#### 4.06 Height Limits

1. Unless expressly allowed elsewhere in these bylaws, no structure shall exceed 40 feet in height above the average ground level. Antennas, windmills, rooftop solar collectors, and other accessory structures shall comply with the permissible height of structures requirement. [§4412(6)]
2. The DRB, through conditional use review procedure may permit a structure to exceed the applicable structure height maximum provided the character of the neighborhood is not affected and the structure does not constitute a hazard.
3. Measuring height. Height is measured from the average grade at the base of the structure to the highest peak of the roof or highest point on the structure.

#### 4.07 Environmental review criteria

1. Buffers and stream setbacks. All development shall be setback at least 25 feet from of bank of any perennial stream or river. The town recommends a naturally vegetated buffer be maintained on all perennial streams and rivers as well but only require the buffer (25 feet minimum) for the Wild Branch due to serious erosion problems in this area.
2. Steep slopes. No development is permitted on land with slopes greater than 30%.

#### 4.08 Abandoned uses

Any non-residential use of a lot or structure shall not be re-established if such use has been discontinued for a period of at least one-year. Once the use of a lot or structure has been deemed abandoned, a zoning permit must be acquired to resume the original use. Intent to resume a use shall not confer the right to do so.

#### 4.09 Unintentionally damaged or destroyed structures

1. The reconstruction of structures that are unintentionally damaged or destroyed is permitted provided the new structure:
  - a. Is used for the same purposes as the old structure, and
  - b. Is substantially the same size and dimensions as the previous structure, and
  - c. All existing setback distances are not reduced, and
  - d. Is not in the Flood Hazard Area Overlay District.
2. For structures in Flood Hazard Area Overlay District, replacement structures must be constructed in accordance with Flood Hazard Area Overlay District standards [§4424(2)(D)].
3. Owners have two (2) years to commence redevelopment of the parcel following date of

unintentional damage or destruction or a new permit for development will be required.

4. If after one year reconstruction of any destroyed structure has not commenced, all structural debris shall be removed from the site and any remaining excavation shall be covered over or filled to natural grade and seeded by the owner.

#### 4.10 Pre-existing Non-conforming Parcels (existing small lots)

1. Any parcel in existence on the effective date of these bylaws may be developed for the purposes permitted in the district in which it is located (following the receipt of a zoning permit from the Zoning Administrator) even though the parcel is not conforming to minimum lot size requirements found in Section 6 of these bylaws, provided such parcel is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet [§4412(7)].
2. All other provisions of these bylaws must be met including setback requirements. This section does not negate the need for obtaining any other required permits or approvals as would normally be required under these bylaws. Any required conditional uses, site plan approvals, variances, and other permits must be obtained prior to the issuing of a zoning permit.

#### 4.11 Non-conforming structures

1. Any legal structure or part thereof, which is not in compliance with the provisions of these bylaws concerning setback, height, size, or other structural requirements (including such things as signs, parking, lighting, buffers, and lowest floor elevation in floodplain zoning) shall be deemed a non-conforming structure [§4412(7)]. Legal non-complying structures exist as a result of construction prior to adoption of bylaws or construction under an earlier set of less restrictive bylaws. Any non-complying structures are allowed to exist indefinitely, but shall be subject to the following provisions:
  - a. Except in the Flood Hazard Area Overlay district, a non-complying structure may be restored or reconstructed after unintentional loss provided the reconstruction is completed within two years and does not increase the degree of non-compliance that existed prior to the damage.
    - (1) Non-complying structures within the Flood Hazard Area Overlay district must be reconstructed in accordance with Flood Hazard Area Overlay District standards [§4424(2)]
  - b. A non-complying structure shall not be moved, altered, extended, or enlarged in a manner that will increase the existing degree of non-compliance.
  - c. Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-complying structure provided that such action does not increase the degree of non-compliance.
  - d. The phrase 'shall not increase the degree of non-compliance' shall be interpreted to mean that the portion of the structure that is non-complying shall not become more non-compliant (or decrease in the event of failing to meet minimum standards such as parking). Therefore, portions of a structure within a setback area can be enlarged provided the new development is no closer than the current non-conforming setback on the non-conforming side, portions above the maximum height can be expanded provided the new development

is no higher than the most non-conforming point on the structure, where parking is deficient the number or size of spaces cannot be reduced, etc. This phrase is not intended to prevent existing unfinished space from being finished or other similar scenarios provided there is no increase in the degree of non-compliance.

- e. Alteration or expansion of a non-complying structure for the sole purpose of compliance with mandated environmental, safety, health, accessibility, or energy codes is permissible with approval by the DRB.
- f. A non-complying structure that has been demolished shall not be reconstructed except in conformance with these bylaws. The DRB may grant a waiver from this provision if a hardship would be created by rebuilding in strict conformance with the requirements of these bylaws. In considering a waiver from these provisions, the DRB shall take into consideration the ability of the applicant to use remaining features of the property such as foundation, water supply, sewage disposal system, underground utilities, etc.

#### 4.12 Non-conforming Uses

- 1. Any use, which does not conform to uses allowed in the district in which it is located or is otherwise not in compliance with the provisions of these bylaws, shall be deemed a non-conforming use [§4412(7)]. Non-conforming uses are those that exist legally as a result of existing prior to adoption of bylaws, or permitted under an earlier set of less restrictive bylaws. Any non-conforming use may be continued indefinitely, but shall be subject to the following provisions:
  - a. The non-conforming use shall not be changed to another non-conforming use without approval by the DRB, and then only to a use that, in the opinion of the Board, is of the same or of a more conforming nature.
  - b. The non-conforming use shall not be expanded, extended, moved or enlarged unless it is determined that such expansion, extension, movement, or enlargement does not increase the degree of non-conformance.
  - c. The non-conforming use shall not be re-established if such use has been discontinued for a period of at least one-year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
  - d. The phrase 'shall not increase the degree of non-conformance' shall be interpreted to mean that the aspect of the operation that is non-conforming shall not increase in size (or decrease in the event of failing to meet minimum standards). Therefore, a non-conforming use may not increase hours of operation, increase numbers of tables, number of employees or increase the size of the operation through the expansion of a complying structure.
  - e. Alteration or expansion of a non-conforming use for the sole purpose of compliance with mandated environmental, safety, health, or energy codes is permissible with approval by the DRB.

#### Subsection 4-B - **Parking and Loading Criteria**

In accordance with §4414(4), provisions are hereby established for permitted and required facilities for off-street parking and loading, which may vary by district and by uses within each district. These regulations include

provisions covering accesses, driveways, pedestrian circulation, and parking.

For uses requiring site plan approval, these standards shall be reviewed by the DRB as a part of that review. For uses not required to receive site plan approval, the Zoning Administrator shall review and approve the application for compliance with these provisions.

#### 4.20 Access

1. Purpose. The purpose of access requirements is for the town to ensure safe and efficient entrance and exit from public roadways, to reduce damage from flooding events, to mitigate erosion and stormwater runoff impacts, and to ensure quality construction of driveway accesses.
2. Coordination with other local and state permits. The DRB (or Zoning Administrator as appropriate), Selectboard, and VTrans have separate authority in approving accesses.
  - a. Through these regulations, the DRB has authority over accesses onto private roads.
  - b. The Selectboard has all authority over accesses onto local highways.
  - c. VTrans requires a state highway access permit prior to any development or subdivision of land abutting a state highway. VTrans has full authority over these accesses although the DRB may provide comment and recommendations to VTrans.
3. No lot shall be developed without legal access onto a public or private highway.
  - a. Any proposed access on a private road must meet the access requirements contained within the *Town of Wolcott Highway Standards Ordinance*.
  - b. Any proposed development on a highway must receive an access permit from the Road Foreman prior to approval of the zoning permit application.
  - c. Any proposed development on a state highway must have a state highway access permit from VTrans prior to approval of the zoning permit.

#### 4.21 Driveway standards.

1. Grade. Driveways shall not have slopes greater than eight (8) percent so as to accommodate fire and rescue access.
2. Width and turning radius. Driveways should also maintain a width and turning radius of not less than:
  - a. 12 feet wide and a minimum 15-foot turn radius for residential development. Driveway widths and turning radius may be larger to accommodate future development but should be kept as narrow as possible for aesthetic reasons.
  - b. 20 feet wide and a minimum turn radius of 15 feet for commercial and industrial sites and private roads in order to accommodate two-way traffic and turning trucks. Driveways may be wider to accommodate future development but should be kept as narrow as possible for aesthetic reasons.

3. No driveway shall be constructed within 10 feet from a property line unless the driveway acts as a shared driveway. This standard does not apply within Village districts.
4. Driveways should be long enough to allow adequate space for vehicles pulling off of the roadway and stacking to enter the road. This is generally not necessary for residential properties and at least 50 feet is required for commercial properties. Those uses that require larger trucks to pickup or deliver may need longer driveways for stacking (up to 150 feet long).
5. Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
6. Parking and driveways shall be designed to allow vehicles to turn around so that there is no backing onto roadways.
7. Circulation within sites should account for any anticipated loading needs, solid waste removal, and snow removal.

#### 4.22 Pedestrian circulation

1. Pedestrian circulation.
  - a. A safe and attractive pedestrian environment shall be provided as appropriate to the use and district.
  - b. Adequate access from the parking area and sidewalks to building(s) that are open to the general public shall be provided for people with disabilities.

#### 4.23 Parking

The following parking and loading standards are to be met by all development:

1. Off-street parking spaces shall be provided in accordance with this section in any district whenever any new use is established, or when the present use is enlarged or changed. The required spaces are detailed on the table below:

| USE                                | REQUIRED PARKING SPACES                                             |
|------------------------------------|---------------------------------------------------------------------|
| Residential – including PUD        | 2 per dwelling unit                                                 |
| Lodging                            | 1 per lodging unit                                                  |
| Medical clinics and group homes    | 1 per 3 beds plus 1 per employee (based on highest expected shift)  |
| Non-profit clubs                   | 1 per 4 members                                                     |
| Churches, schools, public assembly | 1 per 3 seats in the principal assembly room                        |
| Professional & business services   | 1 per 250 sq. ft. floor space                                       |
| Retail establishments              | 1 per 300 sq. ft. floor space                                       |
| Restaurants                        | 1 per 4 seats plus 1 per employee (based on highest expected shift) |
| Industry                           | 1 per 1 employees (based on highest expected shift)                 |
| Unspecified uses                   | As required by the DRB                                              |

2. An off-street parking space shall consist of a space adequate for parking an automobile with room

for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. For purposes of rough computation, an off-street parking space with access and maneuvering room is estimated to be 10 feet wide by 22 feet long.

3. Parking is prohibited within the front setback area where alternate space for parking is available elsewhere on the lot.
4. All open parking areas shall be properly drained in accordance with accepted best management practices for stormwater drainage. Relocation or redesign of parking areas may be required to limit runoff and control erosion.
5. The DRB may require additional off-street parking and loading spaces if it is determine that the minimum required spaces are insufficient.
6. Shared parking is encouraged and may be required. Required parking spaces may be provided in parking areas designed to jointly serve two or more establishments, whether or not they are located on the same parcel, provided the number of required spaces in such joint facilities shall not be less than the total required for all such establishments. Where the two or more establishments have different peak use times, a reduction in the number of spaces may be permitted by the DRB.
7. For any property open to the public (commercial, retail, industrial uses) adequate parking facilities for people with disabilities is required.
8. Where appropriate all uses must provide details on loading requirements including:
  - a. Site plans are required to show loading facilities including refuse removal.
  - b. Loading should not interfere with on site circulation and parking.
  - c. Loading shall not interfere with pedestrian circulation.
9. Provision shall be made for efficient snow removal of all parking, circulation, pedestrian and loading facilities. Sufficient space must present for the storage of snow and the subsequent melt so as to minimize flooding of these areas.
10. Parking areas for uses other than single and two-family dwellings will be required to be landscaped or screened from adjacent uses. (See site plan review criteria.)

#### Subsection 4-C - **Conditional Use Review Criteria**

##### 4.30 General Conditional Use Standards

Conditional use approval shall be granted by the DRB only upon finding that the proposed development will not result in an undue adversely impact (or has been mitigated through conditions imposed) on any of the following [§4414(3)(A)]:

1. The capacity of existing or planned community facilities or services. The Board shall consider the demand for community services and facilities that will result from the proposed development and determine whether that demand will exceed the capacity of existing facilities or services (e.g. school capacity, water and sewer capacity, emergency services, recreation facilities). In making such a

determination, the Board will consider any capital program or budget in effect at the time of application.

2. Existing pattern and use of development in the area affected. The board shall consider the design, location, scale, and intensity of the proposed development and/or use, relative to the surrounding neighborhood. For the purposes of conditional use review, “area affected” is defined as the surrounding area likely to be affected by the proposed use, including but not limited to properties within sight or sound of the proposed conditional use. ‘Existing pattern and use’ refers to the distinctive traits, qualities, attributes, appearances, pattern of use, sense of community and factors, which define its identity. The existence of one conditional use in a district will not necessarily be interpreted as justification for another similar conditional use to be located there. When considering the impact of a proposed conditional use on the character of the neighborhood or area affected, the DRB shall consider the proposal’s compatibility with the purpose and character of the affected zoning district as defined in Section 6 of these bylaws, the municipal plan, and the testimony of the affected property owners and others interested persons.
3. Traffic on roads and highways in the vicinity. The Board shall consider the projected impact of traffic resulting from the proposed development on the capacity, safety, efficiency, and use of affected public roads, bridges, and intersections. The board will rely on accepted transportation standards in evaluating traffic impacts, and shall not approve a project that would result in the creation of unsafe conditions for pedestrians or motorists or unacceptable levels of service for local roads, highways, and intersections (e.g. a reduction in existing level of service below “C” as defined by VTrans or other transportation engineering study).
4. Bylaws now in effect. Proposed conditional uses must conform to all municipal bylaws and regulations in effect at the time of submission of the application, including compliance with conditions of prior permits or approvals.
5. Utilitization of renewable energy resources. Proposed conditional uses shall not have a negative impact on existing renewable energy resources. Negative impacts can include such circumstances as blocking light to solar panels or affecting wind to wind generation facilities on neighboring lands.

#### 4.31 Specific Conditional Use Standards

Conditional use approval shall be granted by the DRB only upon finding that the proposed development will not adversely affect (or has been mitigated through conditions imposed) the following [§4414(3)(B)]:

1. The capacity of the site to support the proposal. The Board shall determine that the proposed conditional use will not cause unreasonable soil erosion or reduction of the land to hold water so that a dangerous or unhealthy condition may result;
2. Scenic, natural or irreplaceable areas. The board shall determine that the proposal shall not have an undue effect on the scenic or natural beauty of the areas, aesthetics, historic sites or rare and irreplaceable natural areas;
3. Water and air quality. The board shall determine that the proposal will not result in undue water, noise or air pollution.

#### Subsection 4-D - **Site Plan Review Criteria**

Site plan review criteria also include Parking and Loading standards in Subsection 4-B of this Section.

##### 4.40 Landscaping and Screening

1. Plantings shall be chosen to fit the specific characteristics and design of the site, and be suited to the climate of the area.
2. In determining the amount and type of plantings to be required, the DRB shall take into account at least the following:
  - a. Existing trees, shrubs, evergreens, and other vegetation to be preserved on the site;
  - b. The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
  - c. The landform and overall landscaping plan for the development;
  - d. Other factors which, in the Board's judgment, affect the safety and appearance of the development.
3. Adequate setbacks and site grading should be provided to ensure that the plantings are not adversely affected by traffic and road salt.
4. Street trees may be required along state and town highways.
5. Where new commercial uses, utility substations, or public uses are adjacent to a lot used for residential purposes, a strip of not less than 15 feet is required as a buffer and shall be suitably landscaped with dense evergreens or other suitable planting.
6. Parking areas should be landscaped or screened from adjacent uses and from the roadways in the vicinity. All new parking lots may be required to be screened by a strip not less than 5 feet in width, and if necessary, be planted with dense evergreens or other planting. If the DRB determines that plantings are not appropriate, it may approve a suitable fence.
7. Plantings, when installed, are to be of a size and shape approved by the DRB. If the DRB determines that the landscaping will take several years to accomplish the desired screening/buffering effect, they may require that fencing be installed and maintained during the interim.
8. To control erosion, the site plan shall meet the following standards:
  - a. The development plan shall fit the topographic, soil, and vegetation characteristics of the site with a minimum of clearing and grading.
  - b. No clearing or grading shall take place within 25 feet of streams.
  - c. Existing natural drainage patterns shall be preserved wherever possible.

- d. Landscaping shall not create slopes greater than 20 percent unless a retaining wall or other mechanism is used to ensure future erosion and/or slumping does not occur.
- e. The sequence of construction activities shall be designed so that the smallest area possible is disturbed at any one time. Only areas where active construction is taking place should be exposed. All other areas should be protected by vegetative and structural control measures.
- f. Seed and mulch shall be applied as soon as possible to disturbed soils.
- g. Disturbance should be avoided as much as possible between October 15 and May 1.

#### Subsection 4-E – **Planned Unit Development Review Criteria**

##### 4.50 Planned Unit Development Criteria

1. Regulation of parcels within PUD: Parcels in PUDs may be part of an association or parcels may be sold as individual lots without an association.
  - a. For those not within an association, such provisions shall be made for the regulation and management of any common land. In these types of PUDs, the use and further subdivision of land are regulated by, but not limited to, these bylaws, the associated subdivision plat and any restrictions placed upon the title of the land.
  - b. For those with an association, limitations and changes of use can be regulated internally through the condominium associated or similar setup. Articles of association are contracts within the members of the association, they are not a substitute for, nor do they supersede any zoning bylaws. If given internal approval, the project must still receive zoning approval for such change of use or development. The Zoning Administrator does not enforce nor mediate disputes regarding any articles of association.
2. Predominant uses of the site shall not differ substantially from those allowed within the district where the project is located. Mixed uses shall be so arranged and buffered as to ensure visual and acoustical privacy to residents in the development.
3. The open space and common land shall first protect agricultural resources. Recreational, environmental, and other common lands for community facilities shall be secondary where agricultural land is present.
4. A percentage of the land should be set aside for open space, parks, recreation areas, or other municipal purposes. The amount of land so designated shall be determined on the merits, purposes, and conditions of the individual proposal. Further, the DRB may establish conditions on the ownership, use, and maintenance of said lands for their intended purposes.
5. No lot may be created which does not meet the state's minimum lot size requirements of 1/8 acre and minimum dimension, including frontage, of 40 feet.
6. The development shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams, stream banks, visual and physical access to the Lamoille River, slopes greater than 25%, wetlands, soils, historic sites, natural areas, wildlife habitat, floodplain, and views.

7. The DRB may permit structures to be located such that they will not meet minimum requirements of these bylaws with respect to setbacks and other dimensional requirements. The minimum setback and yard requirements for the district in which the project is located shall still apply to the periphery of the development.

#### Subsection 4-E - **Variance Review Criteria**

##### 4.60 General Structures

The DRB may render a decision in favor of the applicant only upon establishing **all** of these criteria are met [§4469(a)]:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located; **and**
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property; **and**
3. That the unnecessary hardship has not been created by the applicant; **and**
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; **and**
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the town plan.

##### 4.61 Renewable Energy Structures

The DRB may render a decision in favor of the applicant only upon establishing **all** of these criteria [§4469(b)]:

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations; **and**
2. That the hardship was not created by the appellant; **and**
3. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable resources, nor be a detriment to the public welfare; **and**
4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulations and from the plan.

4.62 Variances to Development in the Flood Hazard Area District

Variances to the development standards in the Flood Hazard District shall be granted by the DRB only [§4424(2)]:

1. In accordance with the Act §§4468, 4412(h), sections 4.60 and 4.61 of these bylaws, and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6 of the National Flood Insurance Program regulations.
2. Upon a determination that during the base flood discharge, the variance will not result in increased flood levels.
3. Upon a determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
4. For non-conforming structures pre-existing in the Flood Hazard Area Overlay district [§4424(2)]:
  - a. The repair, relocation, or enlargement of the structure is required for the continued economically feasible operation of a non-residential enterprise; and
  - b. The repair, relocation, or enlargement of the structure will not increase flood levels in the regulatory floodway, threaten the health, safety, and welfare of the public or other property owners;

## Section 5. – **SPECIFIC USES AND STRUCTURES**

### 5.01 Accessory Apartments

1. A dwelling unit may be allowed as an accessory to a single family home, subject to the following provisions, which also are intended to meet requirements for accessory apartments as set forth in the Act [§4412(1)(E)].
2. The accessory unit shall satisfy the following requirements:
  - a. Accessory apartments are considered permitted uses in any district single family units are allowed. The construction of any addition or new structure for an accessory apartment must therefore meet all provisions of these bylaws for permitted uses including height, parking, and setback requirements.
  - b. The accessory unit shall fulfill the requirements of a dwelling unit – One room, or rooms connected together, constituting a separate, independent housekeeping establishment for the owner occupancy, rental, or lease, and physically containing independent cooking, bathroom/toilet facilities, and sleeping facilities. Mobile homes cannot be used as accessory apartments (mobile homes are treated as primary structures).
  - c. Floor space not to exceed thirty (30) percent of the floor space of the existing living area of the single-family residence.
  - d. One of the residences is occupied by the owner;
  - e. The accessory apartment is occupied by no more than two persons; and
  - f. As accessory apartments add a bedroom to the structure, the applicant must demonstrate compliance with wastewater regulations.
3. A zoning permit issued for an accessory dwelling shall clearly state that the dwelling(s) is permitted only as an accessory to the principal residential use of the property and as such shall be retained in common ownership. Such a dwelling unit may be subdivided and/or converted for conveyance or use as a principle dwelling only if it is found to meet all current municipal regulations applying to a single (or two) family dwelling, including all density and dimensional requirements for the district in which it is located. All applicable municipal permits and approvals shall be required prior to the subdivision, conversion, or conveyance as a principal dwelling.

### 5.02 Boundary Line Adjustments

1. Boundary line adjustments may be approved in any district by the Zoning Administrator. Boundary line adjustments shall not create any new lots. Where new lots are created a subdivision plat must be approved in accordance with the subdivision regulations.
2. Applicants are required to submit a survey plat of the adjusted boundary line which shall include sufficient information to determine the following:
  - a. The boundary line adjustment cannot create a non-conforming lot. In cases where at

least one lot is already non-conforming, the adjusted lot line cannot make the lot more non-conforming (e.g. making a small lot even smaller).

- b. The boundary line adjustment cannot make an existing structure non-conforming (e.g. moving the lot line such that an existing structure violates the setback for the district).

### 5.03 Child Care Facilities

1. No permit shall be issued for the creation or operation of a child care facility without obtaining all licenses and registrations required under state law. Operation of a facility in violation of license or registration shall constitute a violation of these bylaws.
2. Definitions.
  - a. Child Care Facility: Any place, operated as a business or service on a regular or continuous basis whether for compensation or not, which provides early care and/or education.
  - b. Child Care: The developmentally appropriate care, protection and supervision which is designed to ensure wholesome growth and educational experience for children outside of their homes for periods of less than 24 hours a day in a day care facility.
  - c. Child: Person who has not yet reached the age of sixteen years.
  - d. Registered family child care homes. A child care facility, registered with the state, which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. (33 V.S.A §4902(3))
  - e. Licensed family childcare home: An early childhood program licensed for up to 12 children in the residences of the licensee where the licensee is one of the primary caregivers.
  - f. Licensed child care facility: A child care facility licensed to provide an early childhood program for children up to a number established by the Child Care Division.
3. Treatment under these bylaws:
  - a. Unregistered or licensed facilities. Child care facilities that are exempt from state licensure and registration through 33 V.S.A. §3502(b) are not regulated under these provisions but may be regulated in other sections of this bylaw. Such exemptions include:
    - (1) Persons providing care for children of not more than two families;
    - (2) Hospitals or establishments holding a license issued by the Department of Health, or a person operating a program primarily for recreation or therapeutic purposes;
    - (3) Day care facilities operated by religious organizations for the care and supervision of children during or in connection with religious services or church sponsored activities;
    - (4) Nursery schools or other preschool establishments, attended by children of less than compulsory school age, which are subject to regulation by the department of education. (33 V.S.A. §3502(b)(1-4))
  - b. A state registered or licensed family child care home operated within a single family

dwelling shall be considered by right to constitute a permitted single family residential use of the property. [§4412(5)]

- (1) Such uses that meet the requirements above shall not require a permit issued by the Zoning Administrator but the applicant shall notify the Zoning Administrator in writing of intent to establish use.
- c. A state registered or licensed family child care home operating in a dwelling other than a single family dwelling (e.g. duplex, multifamily housing) shall be treated as a permitted use and therefore must receive a zoning permit under section 3.01 and shall also be required to obtain site plan approval under section 3.04.
  - (1) Unless waived in writing by residents of the complex, all family child care homes not operating in a single family dwelling shall be limited to hours of operation between 7 AM and 7 PM.
- d. Licensed day care facilities shall be reviewed as a service establishment and are subject to conditional use and site plan review as appropriate.

#### 5.04 Home Occupations

1. Purpose: The purpose of these provisions is to allow for small, home-based businesses and industries within residential areas while guarding the property rights of neighboring households.
2. No provision of this bylaw shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not have an undue adverse effect upon the character of the area. [§4412(4)]
3. Defining Home Occupations.
  - a. Home occupations are accessory uses to residential properties and must clearly be incidental and secondary to the residential use.
  - b. Home businesses and industries shall be carried on within the principal structure or accessory structures.
  - c. The home business or industry shall be carried on only by residents of the dwelling unit.
  - d. The occupation must be customary in the district in which it is located and will not change the character of the neighborhood.
4. Specific Use Standards. In order to ensure that a home occupation will not change the character of the residential area, the owner must demonstrate that it will comply with all of the following standards:
  - a. All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit or accessory structures.
  - b. No traffic shall be generated which would be uncharacteristic of the neighborhood.
  - c. New parking required for the home occupation shall be provided off-street.

- d. No objectionable vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation.
5. Where it is determined by the Zoning Administrator that the proposal does not meet the definitions or standards of home occupations above, the applicant may apply for a permit under the broader use regulations (commercial, industrial, etc.) as determined by the district in which the parcel is located.

#### 5.05 Mobile Home Parks

1. More than two mobile homes that are located on a parcel of land under single or common ownership or control according to state regulations constitute a mobile home park. [10 V.S.A. §6201]
2. Mobile home parks must meet density requirements for the district in which it is located.
3. No permit shall be granted for such development until all appropriate state permits are obtained.

#### 5.06 Residential Care Home

1. A state registered or licensed residential care home serving 9 or more developmentally disabled or physically handicapped persons on a full time basis shall be reviewed as a multi family dwelling and shall be subject to conditional use and site plan review as appropriate. [§4412(1)(G)]
  - a. Where such use is a conditional use, consideration shall be given to the nature of the residential care home and the potential impact that such a home may have on the given neighborhood.
2. A state registered or licensed residential care home serving 8 or fewer developmentally disabled or physically handicapped persons on a full time basis conducted within a dwelling other than a single family dwelling shall be reviewed as a multi-family dwelling and shall be subject to conditional use and site plan review.
3. A state registered or licensed residential care home serving 8 or fewer developmentally disabled or physically handicapped persons on a full time basis conducted within a single-family dwelling by a resident of that dwelling, shall be considered by right to constitute a permitted single family residential use of the property. [§4412(1)(G)]
  - a. Such uses that meet the requirements above shall not require a permit issued by the Zoning Administrator but the applicant shall notify the Zoning Administrator in writing of intent to establish use.

#### 5.07 Residential Dwellings

1. Classification. Residential developments are classified based on the type of structure (year-round or temporary).
2. Residence status. Residences are classified as either temporary or year-round.
  - a. Temporary residences include camps, recreational vehicles, tents, teepees, yurts, travel

trailers, campers, and similar structures. These structures may be used only on a temporary basis (not more than 90 total days in any calendar year). Temporary residences must receive a temporary permit issued by the Zoning Administrator prior to occupancy. Although temporary, these structures are still required to meet, or have access to, facilities that meet wastewater and water supply rules.

- b. Any structure that is used for dwelling purposes for more than 90 days within any calendar year, or is sited so as not to be readily moveable, shall be deemed a dwelling and be subject to all zoning regulations pertaining to accessory or single family dwellings.
- c. The Zoning Administrator may issue a zoning permit to allow a temporary shelter, including a mobile home, to be occupied for dwelling purposes for not greater than one year to allow a property owner to reside on a parcel while construction or rehabilitating a permanent dwelling. Such a temporary shall be removed from the premises within one year of the issuance of the permit unless applicant obtains a one-year extension from the DRB. No structure other than the permitted temporary shelter may be occupied as a dwelling on a single parcel for the period in which the temporary structure is occupied.
- d. Year-round residences may be single family, two-family, or multi family depending on the proposal.
  - (1) Mobile Homes. No zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. [§4412(1)(B)]
  - (2) Mobile homes shall be treated the same as conventional homes except in a mobile home park.
  - (3) Each year-round dwelling unit is required to meet the following minimum standards:
    - i. One room, or rooms, connected together, constituting a separate, independent housekeeping establishment for the owner occupancy, rental, or lease, and physically containing independent cooking, bathroom/toilet facilities, and sleeping facilities.

#### 5.08 Signs

- 1. A building permit shall be required prior to the erection, construction, or replacement of any outdoor sign. All signs shall be treated as permitted uses in any district except the flood hazard area, which shall be treated as a conditional use.
- 2. Exemptions: The following signs are exempt from the requirements of this section:
  - a. Signs erected by the Town or State on public roads
  - b. Political signs. All signs associated with an election or vote shall be promptly removed following the date of election or vote.
  - c. All temporary signs such as lawn or garage sale signs. All such temporary signs shall be promptly removed when they have fulfilled their function.
  - d. Temporary real estate or construction signs not to exceed 16 square feet in area and 6 feet in height. Such signs shall be promptly removed when it has fulfilled its function.

3. Prohibited Signs. The following shall be prohibited in all districts:
  - a. Signs that impair highway safety
  - b. Signs painted or placed on rock outcrops or similar natural features.
  - c. Roof signs, and wall signs which extend above the roof line.
  - d. Signs which project over public rights-of-way or property lines
4. Sign Maintenance. All signs shall be of durable materials and shall be maintained in good condition. The Zoning Administrator is empowered to order the removal of any sign which has fallen into disrepair and which has not been repaired after thirty (30) days notice.
5. Signs in Residential Areas. On any residential property, a sign not exceeding 4 square feet may be permitted which announces the name, address, or professional or home occupation of the occupant of the premises on which said sign is located.
6. Business Signs. No more than 2 business signs may be permitted on any business or industry premises. Signs shall meet the following standards:
  - a. Number. Two signs are permitted for each business premises - 1 free-standing, and the other attached to the building.
  - b. Size. Maximum size of any sign shall be 50 square feet, or a total of 75 square feet for 2 signs.
  - c. Content. The primary purpose of all business signs shall be for identification of the business (name), products sold, and the business or activity conducted on the premises; not for the purpose of making advertising claims. Sexually explicit or other inappropriate content shall be prohibited.
  - d. Illumination & animation.
    - (1) Signs may be illuminated only during those hours that the business being advertised is open for business.
    - (2) Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon the sign itself.
    - (3) Signs shall be illuminated by a steady light, which must be of one color only.
    - (4) Internally illuminated signs are prohibited.
    - (5) Signs which are animated, gaudy, or containing strings or pennants or similar attention-gathering media is prohibited.
7. Directional and safety signs. Signs to guide traffic and circulation or to protect public health and safety shall not count against sign totals provided they are only as large as necessary and carry only the needed information. For instance, “entrance only”, “exit only”, “parking in back of building”, “watch for falling ice” etc. are appropriate directional and safety signs.
8. Off-Premise Signs. Any sign located elsewhere than upon the lot containing the subject of the sign

shall conform to state statute and regulation.

9. Signs at Edge of Highway. In any zoning district, notwithstanding the district setback requirement for structures, freestanding signs of 8 feet in height or less may be placed at the edge of the highway right-of-way. However such signs shall not be located within 15 feet of adjacent property or an intersection.
10. Computation of Sign Area. When computing the total permissible sign area for any use:
  - a. Existing signs shall be included in the calculation of total sign area.
  - b. The total area of all signs shall not exceed the requirements as set forth in these regulations.
  - c. Sign measurement shall be the area included within the extreme limits of the sign surface.
  - d. Signs consisting of freestanding letters, numerals, or other devices shall include any intervening space between them.
  - e. Only the larger face area of a double-faced sign shall be counted.
  - f. Back-to-back signs may be counted as one sign.

5.09 Water supply- well shields and isolation distances.

1. Purpose: State water supply rules require isolation distances before construction and well shields to protect water quality from contamination in the future. These well shields are placed around all water supply systems and impact future development potential on the applicant's property as well as neighboring properties. The provisions herein are intended to protect water quality for the applicant as well as the property rights of neighboring landowners. These provisions are not intended to regulate the quantity of water, types of wells or pumps or any other technical or engineering of the water supply system.
2. Prior to construction of any new or replacement water supply (drilling a well or digging a spring) a zoning permit must be issued by the Zoning Administrator. This approval is separate and apart from the State Water Supply Permit. The approval issued herein will determine enforcement of the isolation distances.
3. Application requirements: At a minimum an application to construct a water supply system must include:
  - a. A copy of the water supply permit application (permit does not need to be issued yet).
  - b. A site plan showing the locations of the proposed water supply system (well, spring, etc) with respect to roadways, parking lots, driveways, sewage disposal fields (including subsurface piping and related tanks), property lines, limits of herbicide application for utility rights-of-way, surface water, floodways, buildings, concentrated livestock holding area and manure storage systems, and any other applicable potential sources of contamination and other siting limitations.
  - c. Where proposed well shield crosses onto neighboring properties, legal agreements with

neighboring property owners to place easements on the land.

- d. Where a public water system is proposed, the applicant shall provide documentation by a qualified hydro-geologist to identify and delineate the Source Protection Area.

4. Specific Use Standards:

- a. Where the well shield is entirely on the applicant's property, the permit shall be approved provided:
  - (1) The isolation distances are met or a variance has been granted by the Water Supply Division of the Department of Environmental Conservation.
- b. Where a portion of the well shield crosses onto a neighboring property(s), the permit shall be approved provided:
  - (1) The isolation distances are met or a variance has been granted by the Water Supply Division of the Department of Environmental Conservation; and
  - (2) The applicant has received an easement from the neighbor, to be recorded in the title of both properties, identifying the protection area and limitations and rights thereto.
    - i. If an agreement cannot be made with the neighbor(s) regarding the well shield the DRB shall determine, through conditional use approval, the well location and well shield.
      - The applicant shall demonstrate to the DRB that the water supply system cannot be reasonably located elsewhere on his or her property where the well shield would not fall on neighboring properties. Inconvenience, increased costs (for piping or excavation), and loss of applicant's future development potential are not acceptable reasons why a water supply system cannot be located elsewhere. Technical limitations of well drillers and isolation distances may be presented as reasons for locating water supply system.
      - If the water system cannot be relocated in a manner that would meet state guidelines and keep the well shield on the applicant's property then the applicant must minimize the effect of the well shield on neighboring lands.
      - If the applicant's parcel is not yet developed, the DRB may ask the applicant to redesign the entire parcel to minimize the well shield.
      - The DRB shall weigh the loss of potential development on the neighbor (is he/she losing a prime building lot or relatively undevelopable wetlands) with that of the applicant's request (is this a replacement well for an existing property or a new well on a new lot). All things being equal the applicant should bear the greater burden.
      - The DRB should give serious consideration to factors where the well shield will impact the livelihood of the neighbor (impacting agricultural lands of a farmer for instance).
      - Any decision by the DRB will not be recorded as easements on the title but shall be enforced as any other decision by the board. The conditions of the permit shall apply to the effected portions of the neighbor's land in the same manner as other zoning permits.

5.10 Wireless Telecommunications Facilities

1. Purpose. The purpose of these provisions is to protect the public health safety and general welfare of the Town of Wolcott while accommodating the communications needs of residents and businesses. These provisions shall:
  - a. Preserve the character, appearance and property values of the Town of Wolcott while allowing adequate telecommunications services to be developed.
  - b. Protect scenic, historic, environmental, and natural resources of the Town of Wolcott through careful design and siting standards.
  - c. Provide standards and requirements for the siting, design, appearance, construction, monitoring, modification, and removal of wireless telecommunications facilities.
  - d. Minimize tower proliferation by requiring the sharing of existing communications facilities where possible and appropriate.
  - e. Facilitate the provision of telecommunications services to the residents and businesses of the Town of Wolcott.
  - f. Encourage the location of towers in nonresidential areas and away from sensitive areas such as Well Head Protection Areas, wetlands, and endangered species habitat.
2. Consistency with Federal Law: In addition to other findings required by this bylaw, the Zoning Administrator or DRB shall find that its decision regarding an application is intended to be in conformance with current Federal law and current FCC regulations. The bylaw does not:
  - a. Prohibit or have the effect of prohibiting the provision of personal wireless services.
  - b. Unreasonably discriminate among providers of functionally equivalent services; and
  - c. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the current FCC regulations concerning such emissions.
3. Specific Use Standards: Specific use standards for wireless telecommunication facilities include provisions regulating both wireless telecommunications equipment and wireless telecommunications towers under these provisions.
4. Wireless telecommunication equipment includes all equipment (including repeaters) with which a wireless telecommunications system transmits and receives the waves which carry their services. Equipment may be mounted on towers, buildings, or other structures.
  - a. Small telecommunication equipment (dishes less than 24 inches, whip antennas) is considered part of the structure on which it is attached. Equipment meeting this standard is exempt from needing to obtain a zoning permit.
  - b. Large telecommunication equipment (those not meeting the standards for small

telecommunications equipment) is subject to conditional use review and site plan review.

- (1) Where possible, equipment must be disguised, camouflaged, hidden, or positioned such that its view is limited from public places (roads, etc). Stealth technologies must be used where available.
5. Wireless telecommunication towers are structures whose primary purpose is to support wireless telecommunication equipment and which will extend vertically 20 feet or more. All wireless telecommunications towers require conditional use approval and site plan approval. Existing structures such as church steeples and agricultural barns and silos are not considered towers provided the mounting of telecommunications equipment is secondary to another use. Use of existing structures must meet application requirements (1) through (4) below.
- a. Application requirements: A report and design by a qualified and licensed engineer and other documentation by the applicant or representative that:
    - (1) Describes the height, design and elevation of the tower or structure.
    - (2) A site plan that includes:
      - i. A location map, typically a portion of the most recent USGS Quadrangle or map constructed with similar information, showing the area within at least a two-mile radius of the tower site.
      - ii. A vicinity map showing the entire vicinity within a 2,500 foot radius of the tower site including the telecommunications facility, topography, public and private roads and driveways, buildings and structures, water features, wetlands, landscaped features, historic sites and habitat for threatened and endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights-of-way needed from a public way to the tower.
      - iii. A site plan showing, in addition to the other application requirements for site plan approval, all structures, topography, public and private roads and driveways, water features, wetlands, landscaped features, historic sites, habitat for threatened and endangered species, existing vegetation, and property lines within 500 feet of the proposed tower location as well as a circle delineating the tower's 'fall zone'.
      - iv. Elevations showing all facades and indicating all exterior materials and colors of towers, buildings and associated facilities.
    - (3) Document proof of compliance with all FCC requirements.
    - (4) Documents of steps the applicant will take, including an intermodulation study, in order to avoid interference with any established or proposed public safety telecommunications.
    - (5) If a telecommunication tower is proposed, a comprehensive regional tower plan detailing all potential and existing towers used by the telecommunications provider and how the proposed tower contributes to the overall plan for maximum coverage with a minimum of towers. The Town of Wolcott is essentially requesting the telecommunication provider's master plan for the region.
    - (6) Documents that the applicant is a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the Zoning Administrator at the time of application.
    - (7) Documents, for new tower locations, that co-location on an existing tower are not a feasible option.
    - (8) The DRB may require a commitment by the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable

terms and conditions for shared use, including compliance with all applicable FCC regulations, standards, and requirements.

- b. Specific Use Standards- Conditional use review: The following standards apply to all towers and equipment requiring conditional use approval.
- (1) Permissible/ prohibited locations. Telecommunication towers of any size are prohibited within the WHPA districts and Shoreline district. Except in the WHPA and shoreline districts:
    - i. Telecommunication towers less than 40 feet tall are permissible in any district.
    - ii. Telecommunication towers from 40 to 120 feet tall are permissible in all districts except in the village districts.
    - iii. Towers greater than 120 feet tall are prohibited in all districts.
  - (2) Fall zones. The owner of a tower site must own the entire fall zone of a tower.
    - i. The fall zone shall be a circle around the tower whose radius is the height of the tower; the effect of which is to show the potential area of impact in the event of catastrophic failure. This exercise is not to evaluate the likelihood of failure but to examine the worst-case scenario (terrorism, major accident, extreme negligence, etc.).
    - ii. The fall zone shall be free of all other uses including, but not limited to, residential, commercial, and industrial uses. Agricultural uses are permitted within fall zones.
  - (3) Minimizing towers. The proposal must demonstrate that the proposed tower contributes to a regional tower plan that maximizes coverage with a minimum of towers.
    - i. Applications for new towers- where an alternative structure already exists that is suitable, available, and will achieve the same or better level of service, the alternative structure must be used
    - ii. Co-location requirements. The application for a new telecommunications tower shall not be approved unless the DRB finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or structure, due to one of the following reasons:
      - The proposed equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Vermont. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
      - The proposed equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved facility as documented by a qualified engineer licensed to practice in the State of Vermont and such interference cannot be prevented at a reasonable cost.
      - The proposed equipment, either alone or together with existing equipment, would create RFI or RFR in violation of Federal standards or requirements.
      - A cost-benefit or other fiscal analysis demonstrates that the provider will be placed at an unfair disadvantage competitively against other providers in the area.

- Existing or approved towers cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Vermont.
  - Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing tower.
  - There is no existing or approved tower in the area in which coverage is sought.
  - Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing tower.
- (4) Speculation prohibition. An applicant for a telecommunications tower permit must be a telecommunications provider or must have an executed contract to provide land or facilities to an existing telecommunications provider. A permit shall not be issued for a tower to be built on speculation.
- (5) Fencing. All tower sites shall be fenced to reasonably prevent access to the tower and all accessory buildings associated with the telecommunications facility.
- i. Where a church steeple, silo, or other existing structure is proposed as a tower, the applicant must demonstrate that access to the wireless telecommunications equipment is secure - doors accessing steeple area are secured; areas within silos and barn that contain communications equipment are not accessible except by authorized personnel; etc.
- (6) FCC compliance. All new telecommunications facilities must comply with FCC regulations
- (7) Environmental restrictions. No wireless telecommunications tower and/or large telecommunications equipment shall be located:
- i. Within 500 feet of the habitat of any state listed threatened or endangered species.
  - ii. Within 200 feet of any Class II or higher wetland.
  - iii. Within 200 feet of any river or perennial stream
- (8) Interference with public safety telecommunications. No telecommunications equipment shall be placed, constructed or operated in such a manner as to interfere with public safety telecommunications. All applications for new wireless telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing operating new service or changes to existing service, telecommunications providers shall notify the municipality at least ten (10) days in advance of such changes and allow the municipality to monitor interference levels during that testing period.
- c. Specific Use Standard- Site Plan Review: The following standards apply to all towers and equipment requiring site plan approval.
- (1) Aesthetics. Towers must be disguised, camouflaged, hidden or positioned such that its view is limited from public places (roads, etc). Stealth technologies must be used where available. Towers and equipment and any necessary support structures shall be designed to minimize the visual impacts on the surrounding environment, except where the Federal Aviation Authority (FAA), state or federal authorities have dictated color.
- i. Use of existing structures such as in a church steeple or agricultural structure (silos and barns) shall be considered to meet the aesthetic criteria provided the

equipment and other accessory building and parking, etc. meet landscaping and screening requirements.

- (2) The tower shall not be lit except for manually operated emergency lights for use only when operating personnel are on site.
  - (3) No advertising signs or lettering shall be placed on a tower, accessory building, or communication equipment shelter.
  - (4) The Balloon test. Within 35 days of submitting an application, the applicant shall arrange to fly, or raise on a mast, a three foot diameter brightly colored balloon at the maximum height of a tower and within fifty feet of the center of the proposed tower. The date, time alternative weather date, and location of this balloon test shall be advertised by the applicant at one and two consecutive weeks in advance of the test date in the News & Citizen and the Transcript, or equivalent thereof. The applicant shall inform the Wolcott DRB and abutting property owners in writing, at least two weeks in advance. The balloon shall be flown for at least six consecutive daylight hours sometime between 8 a.m. and 6 p.m. on the dates chosen. The DRB shall witness the balloon flight. The applicant shall include, as evidence, photography of the balloon test taken with a lens within the range of 105 to 135 millimeters, from at least 10 different locations of the choosing of the DRB.
  - (5) Screening. All wireless telecommunication facilities not concealed within an existing building (such as church steeples, silos, barns, etc.) shall be screened from view by suitable vegetation except where a design of non-vegetative screening better compliments the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact of facility on surrounding properties and other vantage points.
- d. Temporary Wireless Communications Facilities. Any wireless telecommunications facility designed for temporary use is subject to the following:
- (1) Use of a temporary facility is permitted only if the owner has received a temporary use permit from the Town of Wolcott.
  - (2) Temporary wireless telecommunications facilities are permitted for no longer than five days during a special event.
  - (3) The maximum height of a temporary facility is 50 feet above grade.
  - (4) Temporary facilities must comply with all portions of these regulations applicable to the request.
- e. Abandonment of Wireless Telecommunications Facilities. Abandoned towers or abandoned portions of towers (above highest operating equipment) shall be removed as follows:
- (1) Any tower or portion of a tower shall not be re-established if such use of said tower or portion of tower has been discontinued for a period of at least one-year. Once the tower or portion of said tower has been deemed abandoned, a zoning permit must be acquired to resume the original use. Intent to resume shall not confer the right to do so.
  - (2) In the event the tower is not removed within the one year time period from the cessation of use, the municipality may remove the tower and all associated equipment and the costs of removal shall be assessed against the property or

tower owner.

- (3) In accordance with §4414(12), the DRB may require a bond be posted, in an amount acceptable to the Selectboard, at the time of approval of the wireless telecommunications tower application sufficient to cover the decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements.

## Section 6. - **TOWN AREAS DEFINED**

The Town of Wolcott is divided into the following zoning districts:

**Rural Residential Zones** - Section 6.01

**Shoreland Zones** - Section 6.02

**Route 15 Corridor** - Section 6.03

**Village Areas** - Section 6.04

In addition to the five zoning districts, two overlay districts are established as well:

**Flood Hazard Areas Overlay District** - Section 6.05

**Wellhead Protection Area Overlay District** – Section 6.06

Description of, and regulations relative to, the use of each area are detailed as follows:

6.01 Rural Residential

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                 |               |                                                                                                                          |                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------|--------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Description:</b> The district includes all land identified on the zoning map.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                 |               |                                                                                                                          |                      |
| <b>Objective:</b> The Rural Residential district includes developable areas of town where growth has been occurring over the past 30 years. These areas are best suited to medium density, rural residential development, small businesses, and home businesses and industries but also include traditional uses of the land including farming and forestry.                                                                                                                                                                                                                        |                 |               |                                                                                                                          |                      |
| <b>Permitted Uses:</b><br><br>1) Accessory structures for permitted uses.<br>2) Agriculture and forestry<br>3) Single family dwelling<br>4) Two family dwelling<br>5) Home businesses and industries                                                                                                                                                                                                                                                                                                                                                                                |                 |               | <b>Conditional Uses:</b><br><br>1) All other land uses not classified as permitted including PUDs and mobile home parks. |                      |
| <b>Area and Dimensional Requirements:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                 |               |                                                                                                                          |                      |
| Minimum lot size                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Maximum density | Min. frontage | Minimum setback                                                                                                          |                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                 |               | Road                                                                                                                     | Other property lines |
| 2 acre                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 1 du / 2 acre*  | 150 feet      | 25 feet                                                                                                                  | 25 feet              |
| <b>Conditional Use Standards:</b> In determining the appropriateness of the use or structure, the DRB shall consider the scale and design of the proposal in relation to the scale and design of existing uses and structures and the effect of the proposal on the continued enjoyment of existing and approved uses in the neighborhood. For new structures, building location within the lot may be required to be compatible with the location of existing and approved uses in the neighborhood. The DRB may require larger setbacks depending on the nature of the operation. |                 |               |                                                                                                                          |                      |

\*reasonable variances to density requirement should be considered for two family dwellings.

## 6.02 Shorelands

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                 |                              |                                        |           |                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------------------|----------------------------------------|-----------|-------------------|
| <b>Description:</b> The Shorelands District shall consist of all lands within 500 feet of the normal mean watermark around all lakes, ponds or impoundments exceeding 20 acres. The bodies of water meeting this standard in the Town of Wolcott and their normal mean water marks are as follows:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                 |                              |                                        |           |                   |
| a. Wolcott Pond - elevation 1,196 feet;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                 |                              |                                        |           |                   |
| b. Wapanaki Lake - elevation 1,270 feet;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                 |                              |                                        |           |                   |
| c. Zack Woods Pond - elevation 1,179 feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                 |                              |                                        |           |                   |
| <b>Objective:</b> These regulations of the shorelands in the Town of Wolcott are to prevent and control water pollution, preserve and protect wetlands and other terrestrial and aquatic wildlife habitats, conserve the scenic beauty of shorelands, minimize shoreland erosion, reserve public access to public waters, and achieve other municipal, regional or state shoreland conservation and development objectives.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                 |                              |                                        |           |                   |
| <b>Permitted Uses:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                 |                              | <b>Conditional Uses:</b>               |           |                   |
| 1) None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                 |                              | 1) All other land uses including PUDs. |           |                   |
| <b>Area and Dimensional Requirements:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                 |                              |                                        |           |                   |
| Minimum lot size                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Maximum density | Min. frontage                | Minimum setback                        |           |                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                 |                              | Road                                   | Lake/Pond | Other prop. lines |
| 2 Acres                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 1 du / 2 acres  | 100 ft- road<br>100 ft- lake | 25 feet                                | 150 feet* | 25 feet           |
| <b>Conditional Use Standards:</b> Applicants shall provide written documentation showing how their proposal avoids or mitigates any potential risks to surface and ground water. Applicants shall demonstrate that they have designed and sited their project to minimize impacts upon wetlands, riparian habitats, steep slopes, and other important features known to impact water quality. Applicants must address stormwater runoff from impervious surfaces and disposal of solid waste. In determining the appropriateness of the use or structure, the DRB shall consider the scale and design of the proposal in relation to the scale and design of existing uses and structures and the effect of the proposal on the continued enjoyment of existing and approved uses in the district. For new structures, building location within the lot may be required to be compatible with the location of existing and approved uses in the neighborhood. The DRB may require larger setbacks depending on the nature of the operation. |                 |                              |                                        |           |                   |

### 1. Additional setback requirements-

- Subsurface sewage facilities will be set back the following minimum distance from the normal mean water mark:
  - 200 feet in soils 3, 9, 11, 13, 20, 22, 47, 59, 59\*, and 61.
  - 100 feet in soils 27, 38, and 38 where slopes do not exceed 15% in the vicinity of the leach field, otherwise 200 feet.
  - 100 feet in soils 12 and 14 where the conditions below are met, otherwise 200 feet.

- i. Slopes do not exceed 15% in the vicinity of the leach field; and
- ii. There is a minimum soil depth of 7 feet to bedrock and 6 feet to signs of seasonal high water table; if a raised system is proposed, there must be a minimum of 5 feet to bedrock and 4 feet to signs of seasonal high water table below the proposed leach lines.

Test holes to demonstrate soil depth are the responsibility of the applicant.

- 2. In order to prevent soil erosion, and to support other stated shoreland protection purposes, existing stands of trees and ground cover along the shoreline shall be maintained or supplemented, for 100 feet from the normal mean water mark.
- 3. On occasion, the soil at the proposed site will differ from the soil type shown on the town soil map, so that the location of the subsurface sewage facilities can be reconsidered. In that event, the applicant may apply for a public hearing to be held by the DRB for such reconsideration.

### 6.03 Route 15 Corridor

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                 |                                                            |                                                                                                                      |                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Description:</b> The district includes all land within 1000 feet of the edge of the Route 15 right of way, except for areas designated as village areas, as identified on the zoning map. Where the Route 15 corridor extends to the Lamoille River the district is considered to end at the rivers edge.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                 |                                                            |                                                                                                                      |                      |
| <b>Objective:</b> The Route 15 corridor is established to achieve two objectives- to maintain a safe, efficient travel corridor and to encourage commercial and industrial development in areas with the best highway access and exposure to travelers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                 |                                                            |                                                                                                                      |                      |
| <b>Permitted Uses:</b><br>1) Accessory structures for permitted uses.<br>2) Agriculture and forestry<br>3) Single family dwelling<br>4) Two family dwelling<br>5) Home businesses and industries                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                 |                                                            | <b>Conditional Uses:</b><br>1) All other land uses not classified as permitted including PUDs and mobile home parks. |                      |
| <b>Area and Dimensional Requirements:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                 |                                                            |                                                                                                                      |                      |
| Minimum lot size                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Maximum density | Min. frontage                                              | Minimum setback                                                                                                      |                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                 |                                                            | Road                                                                                                                 | Other property lines |
| 1 acre                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 1 du / 1 acre   | 600 feet on Rte 15<br>100 feet on secondary or private rd. | 25 feet                                                                                                              | 25 feet              |
| <b>Conditional Use Standards:</b> Many areas of this corridor have topographic and other limitations to development. In determining the appropriateness of the use or structure, the DRB shall consider these limitations as well as the scale and design of the proposal in relation to the scale and design of existing uses and structures. Design and siting of accesses is critical to ensuring any development will not create a danger for the traveling public. Development should not impede the smooth flow of traffic that currently exists along the corridor. For new structures, building location within the lot may be required to be compatible with the location of existing and approved uses in the neighborhood. The DRB may require larger setbacks depending on the nature of the operation. |                 |                                                            |                                                                                                                      |                      |

6.04 Village Areas

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                             |               |                                                                                                                          |                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|---------------|--------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Description:</b> The district includes properties in and near the existing villages of Wolcott and North Wolcott.                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                             |               |                                                                                                                          |                      |
| <b>Objective:</b> The villages have been the center of social, commercial, and governmental functions since the town’s founding. These areas are best suited to higher density residential development, small businesses, commercial operations, and home industries. Industrial development is permitted contingent upon meeting wastewater requirements.                                                                                                                                                                                                                          |                             |               |                                                                                                                          |                      |
| <b>Permitted Uses:</b><br><br>1) Accessory structures for permitted uses.<br>2) Agriculture and forestry<br>3) Single family dwelling<br>4) Two family dwelling<br>5) Home businesses and industries                                                                                                                                                                                                                                                                                                                                                                                |                             |               | <b>Conditional Uses:</b><br><br>1) All other land uses not classified as permitted including PUDs and mobile home parks. |                      |
| <b>Area and Dimensional Requirements:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                             |               |                                                                                                                          |                      |
| Minimum lot size                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Maximum density             | Min. frontage | Minimum setback                                                                                                          |                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                             |               | Road                                                                                                                     | Other property lines |
| Wolcott 1 ac.<br>N. Wolcott 1 ac.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 1 du / 1 ac.<br>1 du/ 1 ac. | 90 feet       | 10 feet                                                                                                                  | 15 feet              |
| <b>Conditional Use Standards:</b> In determining the appropriateness of the use or structure, the DRB shall consider the scale and design of the proposal in relation to the scale and design of existing uses and structures and the effect of the proposal on the continued enjoyment of existing and approved uses in the neighborhood. For new structures, building location within the lot may be required to be compatible with the location of existing and approved uses in the neighborhood. The DRB may require larger setbacks depending on the nature of the operation. |                             |               |                                                                                                                          |                      |

6.05 Flood Hazard Area Overlay District

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <b>Description:</b> The Flood Hazard Areas district shall consist of all lands in the Town identified as areas of special flood hazard on the Federal Insurance Administration (FIA) FIRM maps, dated August 2, 1982, or more recent revisions, and as a regulatory floodway on the FIA Flood Boundary and Flooding Maps, dated August 2, 1982, or more recent revisions, and further delineated in the Flood Insurance Study.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                         |
| <b>Objective:</b> It is the purpose of this district to minimize and prevent loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flood by: <ol style="list-style-type: none"> <li>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;</li> <li>b. Requiring that the design and construction of development in the flood hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood damage;</li> <li>c. Prohibiting filling of the flood hazard area unless compensating the flood carrying capacity elsewhere; and</li> <li>d. Promoting wise use of the flood hazard areas as agricultural lands and open space.</li> </ol> |                                                                                         |
| <b>Permitted Uses:</b> <ol style="list-style-type: none"> <li>1) Agriculture and forestry</li> <li>2) Outdoor recreation without structures</li> <li>3) Open space</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Conditional Uses:</b> <ol style="list-style-type: none"> <li>1) See below</li> </ol> |
| <b>Area and Dimensional Requirements:</b> As set forth for the underlying district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                         |
| <b>Conditional Use Standards:</b> See below.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                         |

1. This district is an overlay zone and shall be superimposed on the other districts established by this bylaw. Where the provisions of the underlying district differ from those of the Flood Hazard Area Overlay District, the more restrictive shall govern.
2. The mandatory provisions of state and federal law for continued Town participation in the National Flood Insurance Program are hereby adopted by reference and shall be applied in the review of any land alterations or construction in this district.
3. Additional Notice Requirements.
  - a. Prior to issuing a permit for any development occurring within the Flood Hazard Area Overlay District, the Zoning Administrator must:
    - (1) Mail or deliver a copy of the application to the agency of natural resources; and
    - (2) Either wait 30 days from the date of mailing or wait until the agency delivers comments on the application, whichever comes first.
  - b. Adjacent communities shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse.

4. Permitted Uses. The permitted uses above shall be approved within the floodway fringe provided that they do not require the erection or substantial improvement of structures, storage of materials and equipment, or importing of fill.
5. Conditional Use Review Standards:
  - a. Floodway Areas
    - (1) Development within the floodway is prohibited.
    - (2) Landfilling, parking recreational vehicles, junkyards, and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are strictly prohibited within the floodway.
  - b. Floodway Fringe Areas
    - (1) Proposed new construction. No new construction is permitted within the floodway fringe unless elevated above the floodway fringe in the manner specified below. Once a structure has been elevated out of the floodway fringe, the regulations of the underlying district shall apply provided provisions below are met.
      - i. Portions of the floodway fringe may be filled in order for construction to be permitted provided the landfilling occurs in a compensatory fill manner (for each yard of material added to the floodway fringe the same volume of material must be removed from another portion of the floodway fringe in Wolcott). Where possible the removed fill should be on site or nearby and must have the impact of replacing the flood carrying capacity that is lost by the filled portions.
      - ii. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
      - iii. All fill must be properly compacted, graded, and, where appropriate, re-vegetated.
      - iv. Landfilling is not permitted in wetlands or the floodway (see above).
      - v. All development shall be designed to minimize flood damage and to provide adequate drainage to reduce exposure to flood hazards.
      - vi. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
      - vii. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
    - (2) Existing structures. Existing structures shall be modified and adequately anchored to prevent flotation, collapse, or lateral movement and to minimize risk of damage during the occurrence of the base flood.
      - i. Improvements to existing structures shall be constructed with materials resistant to flood damage including electrical, heating, ventilation, plumbing, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
      - ii. Existing buildings to be substantially improved for residential purposes and replacement homes shall be modified or elevated such that the top of the fill (the pad) under the entire home is above the base flood elevation. Fill for replacement structures and fill for floodproofing of existing structures are not required to meet the compensatory fill requirements above. Fill may also be

- added for 10 feet around the elevated structure (provided it does not fill floodway or wetlands) without compensation as well.
- iii. Existing manufactured homes, additions to manufactured homes, and accessory buildings shall be tied down by provision of;
    - over the top ties at each corner, with two additional ties per side at intermediate locations; and
    - frame ties at each corner, with five additional ties per side at intermediate locations. Manufactured homes less than 50 feet long may use, in addition to all the corner ties above, one over the top tie and four frame ties per side. All components of the anchoring system shall be capable of carrying a force of 4800 pounds. An evacuation plan for any existing manufactured home parks and subdivisions indicating alternate vehicular access and escape routes shall be filed with the State Civil Defense Office. (See §1910.3(b)(8) of the Federal Register and the FEMA manual, "Manufactured Home Installation in Flood Hazard Areas. September 1985" for anchoring standards.)
  - iv. Dry-proofing. Existing buildings to be substantially improved for non-residential purposes shall either meet the requirements of subsection (ii) or be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be dry-proofed shall not be issued until a registered engineer or architect has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
  - v. Wet-proofing. As an alternative to land filling or dry-proofing an existing structure for non-residential purposes, all substantial improvements to buildings with fully enclosed areas subject to flooding may be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered engineer or architect and include the following minimum criteria:
    - A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
    - The bottom of all openings shall be no higher than 1 foot above grade.
    - Openings may be equipped with screens, louvers, valves, or other coverings provided that they permit the automatic entry and exit of floodwaters.
- (3) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
  - (4) Recreational vehicles, other temporary shelters, junkyards and storage of junk are strictly prohibited from the floodway fringe. Storage of floatable, hazardous, or toxic materials is permitted only when the material or tank is anchored to a pad that has been filled and graded to at least one foot above the base flood elevation.
  - (5) Any landscaping within the Flood Hazard Area must provide adequate draining paths around structures on slopes to guide floodwaters around and away from existing and proposed structures.

6.06 Wellhead Protection Area Overlay District

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <b>Description:</b> The Wellhead Protection Area Overlay District includes those portions of the Town that are within the public water supply source protection areas serving the Elmore Water Cooperative.                                                                                                                                                                                                                                                                                                                           |                                                                                       |
| <b>Objective:</b> In order to protect the Elmore Water Cooperative's public water supply this district will restrict land uses that might impact surface or ground water quality.                                                                                                                                                                                                                                                                                                                                                     |                                                                                       |
| <b>Permitted Uses:</b><br>1) Same as underlying district except as specified below.                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Conditional Uses:</b><br>1) Same as underlying district except as specified below. |
| <b>Area and Dimensional Requirements:</b> As set forth for the underlying district.                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                       |
| <b>Conditional Use Standards:</b> Applicants shall provide written documentation showing how their proposal avoids or mitigates any potential risks to surface or ground water. Applicants shall demonstrate that they have designed and sited their project to minimize impacts upon wetlands, riparian habitats, aquifer recharge areas, permeable soils, steep slopes, and other important features known to impact water quality. Applicants must address stormwater runoff from impervious surfaces and disposal of solid waste. |                                                                                       |

1. This district is an overlay zone and shall be superimposed on the other districts established by this bylaw. Where the provisions of the underlying district differ from those of the Wellhead Protection Area Overlay District, the more restrictive shall govern.
2. Specifically prohibited uses within the WHPA: Solid or hazardous waste disposal sites; underground storage tanks (except for storing drinking water); storage, manufacture, or processing of commercial fertilizers or pesticides; storage of road salt; any facility which uses, distributes, or stores, toxic chemicals, solvents, or fuels (such as gas stations or dry cleaners); injection wells; motor vehicle junk yards; electric utility substations, any facility or use in which the number of on-site sewage disposal systems exceeds a density of one such system per acre; any facility or use which requires an on-site sewage disposal system with a capacity of more than 900 gallons per day; commercial and industrial operations which involve the on-site disposal of process wastes from operations; car washes; any development which involves covering 10% or more of the area of a single lot with impervious surface.

## Section 7. – **DEFINITIONS**

### 7.01 Definitions Generally.

Except as specifically defined below, all words shall carry their customary meanings.

### 7.02 Definitions Specifically.

The following definitions also apply to these Bylaws:

Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Act, the. The words "the Act" shall mean Title 24, Chapter 117 of the Vermont Statutes.

Area of Special Flood Hazard. Means the land subject to flooding from a base flood. [§4303(8)]

Base Flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year. [§4303(8)]

Basement. This means any area of the building having its floor subgrade (below ground level) on all sides.

Conditional Use. Those uses which, according to the particular district regulations, are allowed on a property only after certain general and specific standards have been met, and upon approval of the DRB determines that the proposed use will conform to the general and specific standards.

Density: As defined in Section 4.04 of these bylaws.

Development. As defined in Section 1.03 of these bylaws.

Disability. See handicap.

DRB. The Town of Wolcott Development Review Board.

Dwelling, Seasonal. A dwelling unit that is not to be occupied as a principal place of abode, but rather used as a recreational home, or a second home.

Dwelling Unit. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease, and physically containing independent cooking, bathroom/toilet facilities, and sleeping facilities.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood hazard area bylaws.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes

are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

Flood Hazard Boundary Map (FHBM). This means an official map of the community issued by the Administrator, where the boundaries of the flood, mudslide (i.e. mudflow), and related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood Insurance Rate Maps (FIRM). This means an official map of a community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study. This means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodproofed or Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures that reduced or eliminate flood damage to any combination or real estate, improved real property, water or sanitary facilities, structures and their contents. [§4303(8)(A)]

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [§4303(8)(B)]

Handicap or disability. With respect to an individual means:

- a. a physical or mental impairment which limits one or more major life activities,
- b. a history or record of such impairment, or
- c. being regarded as having such an impairment. [9 V.S.A. §4501(2)]

Hazard area. Means land subject to landslides, soil erosion, earthquakes, water supply contamination, or other natural or human-made hazards as identified within a “local mitigation plan” in conformance with and approved pursuant to the provisions of 44 C.F.R. §201.6.

Height. As defined in section 4.06 of these bylaws.

Home Occupation. An accessory use of a service character conducted within a dwelling, by a family, which is clearly secondary to the dwelling used for living purposes and does not change the character there of.

Interested Person. This means anyone meeting the definition of the term as set forth in the Act [§4465(b)]. The definition includes the following:

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

- c. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under the bylaw, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of the municipality.
- d. Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (b) above who, by signed petition to the DRB, the bylaws of which are at issue in any appeal brought under the Act, allege that the relief requested by a person under the Act, if granted, will not be in accordance with the policies, purposes, or terms of the plan or bylaw of Wolcott. This petition to the DRB must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.
- e. Any department and administrative subdivision of the state owning property or an interest therein within Wolcott or any adjoining town, and the Agency of Commerce and Community Development.

Lowest Floor. This means the bottom floor of the lowest enclosed area (including basement).

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood insurance purposes, and other purposes if these Bylaws, the term "manufactured home" does not include recreational vehicles, park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park or Subdivision (for Flood Hazard Area Overlay District) means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level. This means, for purposes of the national Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the community's Flood Insurance Rate Map are referenced.

Mobile Home: means a prefabricated dwelling unit which:

- a. is designed for long term and continuous residential occupancy;
- b. is designed to be moved on wheels, as a whole or in sections;
- c. on arrival at the site is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure;
- d. meets all other criteria and standards established by rule of the agency for distinguishing mobile homes from other types of residential units. [10 V.S.A. §6201(1)]

Mobile Home Park: means any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Noting herein shall be construed to apply to premises used solely for storage or display of mobile homes.

Mobile home parks does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. [10 V.S.A. §6201(2)]

New Construction. With respect to the flood hazard provisions of this bylaw, “new construction” means construction of structures or filling commenced on or after the effective date of the adoption of Wolcott’s Flood Hazard Area Bylaws. [§4303(8)(D)]

Non-Conforming Lots or Parcels. Means lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator. [§4303(13)]

Non-Conforming Structure. Structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the zoning administrator. [§4303(14)]

Non-Conforming Use. Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator. [§4303(15)]

Non-Residential Use. All uses of structures or land except single-family dwellings, two-family dwellings and multi-family dwellings.

Parcel. A lot of land, described by metes and bounds, the description of which has been so recorded in the Town Clerks Office.

Parking Space, Off Street. For the purposes of this Bylaw, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

Permitted Uses. Use specifically allowed in the district, excluding illegal uses and non-conforming uses.

Physical or Mental Impairment. Means

- a. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; geito-urinary; hemic and lymphatic; skin; or endocrine.
- b. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
- c. The term “physical or mental impairment” includes such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism. A handicapped individual does not include any

individual who is an alcoholic or drug abuser who, by reason of current alcohol or drug use, constitutes a direct threat to property or safety of others. [9 V.S.A. §4501(3)]

Planned Unit Development. Means one or more lots, tracts or parcels or 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 bylaw 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. [§4303(19)]

Recreational Vehicle means a vehicle which is:

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

Renewable Energy Resources. Means energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources. [§4303(24)]

Road. Any public or private way, or right-of-way, which provides, or is reserved to provide, the principal access to abutting properties.

Shall. This denotes a mandatory requirement.

Sign. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

Structure. This means an assembly of materials for occupancy or use, including, but not limited to: buildings, mobile homes or manufactured homes or trailer, satellite dishes, signs, walls, fences, or gas or liquid storage tanks. [§4303(27)]

Substantial Improvement. With respect to the flood hazard provisions of this bylaw, “substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. However, the term does not include either of the following:

- a. Any project or improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions;
- b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places. [§4303(8)(E)]





TOWN OF WOLCOTT  
LAMOILLE COUNTY, VERMONT

**SUBDIVISION REGULATIONS**

Bylaw Adoption History:

Adopted Subdivision Bylaws on an Interim Basis: August 9, 1988

Extended by Selectmen: July 24, 1990

Adopted Subdivision Regulations: June 28, 1991

Amended Subdivision Regulations: November 6, 1996

Amended Subdivision Regulations: March 7, 2006



## WOLCOTT SUBDIVISION REGULATIONS

### Section 1. – INTRODUCTION

#### 1.01 Enactment

1. These regulations, set forth in this text, are hereby established as authorized in §4402(3) and have been enacted in accordance with the provisions of the Vermont Municipal and Regional Planning and Development Act (Title 24, Chapter 117 of the Vermont Statutes Annotated (V.S.A.)) hereinafter referred to as “the Act.”

#### 1.02 Areas and Activities covered by these bylaws

1. Unless specifically exempted herein, no subdivision of land shall commence within the area affected by these regulations except in conformance with these regulations [§4446].
  - a. Subdivision includes but is not limited to:
    - (1) The division of a parcel into two or more parcels.
    - (2) Resubdivisions, amendments to subdivisions, and amendments to conditions of plat approval.
    - (3) Creation of easements or rights of way to allow access to landlocked parcels [§4418(1)(B)].
2. Exemptions. Boundary line adjustments and the filing of boundary surveys and/or corrective deeds to repair boundary metes and bounds are not considered amendments within the meaning of these regulations provided they are records of existing parcels with known boundaries.
3. Area of effect. All subdivision of land within the Town of Wolcott is subject to review under these regulations.

#### 1.03 Effect of Regulations

1. No person, who, being the owner or agent of the owner of any parcel of land, shall lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sell, transfer, or agree or enter into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erect any structure on that land, unless a final plat has been approved and recorded as provided in these regulations. [§4451(b)]
2. All subdivisions lawfully in effect as of the effective date of these bylaws are allowed to continue indefinitely [§4463(b)]. Any resubdivision or other changes in the subdivision shall be subject to all applicable requirements of these bylaws.
3. These regulations shall not repeal, abrogate, or impair any other land use controls including but not limited to previous permit conditions, statutes, bylaws, rules, ordinances, permits, easements, deed restrictions, and covenants. However, the provisions of this regulation shall be minimum requirements and shall therefore take precedence over any concurrent and less

restrictive controls. [§4413(c)]

4. The granting of plat approval under these regulations shall not relieve the applicant from the obligation of obtaining any necessary approvals by local, state, or federal law.

1.04 Intent

It is the intent of these regulations:

1. to detail the simplest possible procedures that will allow the town to develop in the manner that is consistent with the general policies outlined in the Wolcott Town Plan.
2. To ensure that any new lots created will have legal access, meet dimension and frontage requirements, have access to required services and utilities, and have a permissible use. In addition, the regulations are intended to ensure any new roads are designed and laid out appropriately and that open space and agricultural land are protected.
3. To implement the Town of Wolcott Municipal Development Plan so as to achieve orderly community growth, development, and fair property taxation;
4. To further the purposes of the Act [§4302].

1.05 Effective Date

These regulations shall take effect immediately following a vote by Australian Ballot by the registered voters of Wolcott [§4442(c)(1)].

1.06 Severability

The provisions of these regulations are severable. If a court of competent jurisdiction holds any provision or the application thereof to any person or circumstance unconstitutional or invalid, the remainder of these regulations shall not be affected.

1.07 Amendment

These regulations may be amended according to the requirements and procedures established in the Act [§§4441-4442].

## Section 2. – **ADMINISTRATION, APPEALS, AND ENFORCEMENT**

### 2.01 Zoning Administrator

1. These regulations shall be administered by the Zoning Administrator [§4448(a)].
2. The Zoning Administrator may hold any other office in town except membership on the DRB [§4448(a)].
3. The Zoning Administrator shall administer these regulations literally and shall not have the power to permit any subdivision that is not in conformance with these regulations [§4448(a)].
4. The Zoning Administrator shall receive and administer subdivision plat applications under section 3.01 of these regulations.
5. The Zoning Administrator shall investigate complaints and has the power to pursue violations of these regulations through procedures set forth under section 2.05 of these regulations [§4452].
6. The Zoning Administrator should provide forms required to obtain any municipal permit or other municipal authorization required under this regulation or any other bylaw, regulation, or ordinance that relate to the regulation of land development within the Town of Wolcott [§4448(c)].
7. The Zoning Administrator should inform any person applying for approval of a subdivision plat that the person should contact the regional permit specialist in order to identify, apply for, and obtain relevant state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits [§4448(c)].
8. The Zoning Administrator shall meet the recording requirements of section 2.07 of these regulations [§4449(b) – (c)].

### 2.02 Development Review Board

1. The Development Review Board (hereinafter referred to as “the DRB”) shall not consist of less than 5 nor more than 9 members whose members shall be appointed by the Selectboard for specified terms. The Board may consist of the members of the Planning Commission. Vacancies shall also be filled by appointment of the Selectboard for unexpired terms and upon the expiration of terms. The Selectboard upon written charges and after a public hearing may remove any member of the DRB for just cause [§4460(b) - (c)].
2. The DRB shall have all powers set forth in the Act to administer the provisions of these regulations including, but not limited to, the power to:
  - a. Consider subdivision plats for approval under section 3.01 of these regulations [§4460(e)(8)] [§4418(2)(B)].
  - c. Consider applications for Planned Unit Developments under section 3.01 [§4460(e)(5)] [§4417].
  - d. Consider requests for a waiver under section 3.02 [§4460(e)(6)] [§4418(2)(A)].

- e. Consider decisions of the Zoning Administrator upon appeal under section 2.03 of these regulations [§4460(e)(10)].
- 3. The DRB shall adopt rules of procedure, rules of ethics with respect to conflict of interest, and perform its functions in conformance with the Act [§4461] and Vermont's Open Meeting Law [1 V.S.A. §§310-314].
  - a. The rules of procedure adopted by the DRB must provide the opportunity for each person wishing to achieve status as an interested person (as defined in section 7.02 of the Town of Wolcott Zoning Bylaws) to demonstrate that the criteria as established by statute are met, and that the panel shall keep a written record of the name, address, and participation of each of these persons. [§4461(b)]
- 4. The DRB shall meet all relevant recording requirements of section 2.07 of these regulations.

#### 2.03 Appeals- Decisions of the Zoning Administrator

- 1. An interested person may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the DRB within fifteen (15) days of the act or decision [§4465].
- 2. Notice of Appeal Requirements: A notice of appeal shall be in writing and include [§4466]:
  - a. The name and address of the appellant.
  - b. A brief description of the property with respect to which the appeal is taken.
  - c. A reference to applicable regulation provisions.
  - d. The relief requested by the appellant.
  - e. The alleged grounds why such relief is believed proper under the circumstances
- 3. Rejection of Notice of Appeal: The DRB may reject an appeal or request for reconsideration without hearing and render a decision and findings of fact within ten (10) days of the filing of the notice of appeal, if the DRB considers the issues raised by the appellant have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of that appellant. The decision shall be rendered, on given notice, as in the case of a decision on appeal below [§4470(a)].
- 4. Public Hearing: Within sixty (60) days of receiving a notice of appeal, the DRB shall hold a public hearing. [§4468]
  - a. Public notice for any hearing shall be given not less than fifteen (15) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public notice shall be: [§§4464, 4468]
    - (1) Mailed to the appellant;
    - (2) Published in a newspaper of general circulation in the Town;
    - (3) Posted in three or more public places within the municipality including:
      - i. The town clerks office; and
      - ii. Within view from the public right of way most nearly adjacent to the property

- for which the application is made; and
- (4) Written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
- b. The Zoning Administrator is responsible for notifying adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The appellant is required to bear the cost of the public warning and a fee (as established by the Selectboard) to cover the administrative costs of the Zoning Administrator. [§4464(a)(3)]
  - c. Any interested person may appear and be heard in person or be represented by agent at the public hearing [§4468].
  - d. All hearings of an appeal shall be open to the public and the rules of evidence applicable at such hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies [§4468]. These include:
    - (1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence in civil cases in the Vermont Superior Courts shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offerings may be made and shall be noted on the record.
    - (2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request parties should be given opportunity to compare the copy with the original.
    - (3) A party may conduct cross examinations required for a full and true disclosure of the facts.
    - (4) Facts and information understood by members of the board may be presented as evidence. [3 V.S.A. §810]
  - e. In most cases the Zoning Administrator is the defendant in the appeal before the DRB. In those cases the Zoning Administrator should not act as a staff member during the hearing or deliberations.
  - f. The DRB may recess the proceedings of the appeal pending submission of additional information [§4464(b)(1)]. The hearing may be adjourned by the DRB from time to time provided, however, that the date and place of the adjourned hearing shall be announced at the hearing [§4468].
5. Decision: The DRB should close the hearing promptly after all parties have submitted requested information. The DRB decision shall be issued within forty-five (45) days of completing the hearing. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed approval. [§4464(b)(1)]

In rendering a decision in favor of the applicant, the DRB may attach reasonable conditions and

safeguards, as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan then in effect. [§4464(b)(2)]

Copies of any DRB decision shall be sent to the appellant and applicant (both by certified mail) every person or party who was heard at the hearing. [§4464(b)(3)]

6. Appeals: Appeals of the decision of the DRB may be made to the Environmental Court, as per section 2.04, within thirty (30) days of the date of decision [§4471].
7. Posting and Recording Requirements: The DRB shall file its decision with the Zoning Administrator, for posting and filing in the land use records, and the Town Clerk for filing as part of the public record [§4464(b)(3)]. All posting and recording shall be in compliance with section 2.07.

#### 2.04 Appeals of DRB Decisions

1. An interested person who has participated in the local regulatory proceeding under these bylaws may appeal a decision of the DRB to the Environmental Court [§§4471]. 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. Appeals to the Environmental Court must be taken in accordance with the provision of V.R.C.P 76a and V.R.A.P. 3 and 4
2. Initiation of Appeal: Within thirty (30) day [V.R.A.P. 4] following the date of decision rendered by the DRB, notice of the appeal shall be filed by certified mail with fees to the environmental court and mailing a copy to the municipal clerk or 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 interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene [§4471(c)].
3. Notice of Appeal Requirements: A notice of appeal shall be in writing and include [§4471]:
  - a. The name of the party appealing.
  - b. What board made the decision being appealed (e.g. the DRB).
  - c. The nature of the decision under appeal (e.g. conditional use determination, site plan approval, variance request, appeal of Zoning Administrator decision).
  - d. A reference to the specific provisions of the bylaw.
  - e. The relief requested by the appellant.
  - f. The signature of the appellant or attorney.
4. Filing Fee: The filing fee is established by V.R.C.P. 76 (e). At the time of the development of these bylaws, the fee for filing an appeal with the Environmental Court is \$150.

#### 2.05 Violations and Enforcement

1. The commencement or continuation of any development, which is not in conformance with the provisions of these bylaws, shall constitute a violation. Violations of these bylaws shall be prosecuted in accordance with the Act [§§4451, 4452].
2. Identification and Investigation of Violations: The Zoning Administrator is required by law to enforce all violations of these bylaws [§4448(a)]. Whether through direct observation, written or oral complaint, site visit, or notification of violation from the landowner, the discovery of an alleged violation must be pursued by the Zoning Administrator.
  - a. Any person may file a written complaint with the Zoning Administrator if it is believed that a violation of these bylaws has occurred. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, investigate within a reasonable time, and take action as appropriate in accordance with these bylaws.
  - b. The Zoning Administrator may not enter upon any private property, for purposes of inspection and investigation, except by permission of the landowner or per a search warrant duly issued by a court [13 V.S.A. §4701].
3. Formal Notice of Violation: No action may be brought under this section unless the alleged offender has had at least seven (7) working days notice by certified mail that a violation exists and has failed to satisfactorily respond or correct the alleged violation [§4451(a)].
  - a. The warning notice shall state:
    - (1) That a violation exists;
    - (2) That the alleged offender has an opportunity to cure the violation within the seven (7) day period;
    - (3) That the alleged offender has the right to appeal the notice of violation to the DRB within fifteen (15) days from the date the notice was sent; and
    - (4) That the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) day period.
  - b. Action may be brought without notice and opportunity to cure, if the alleged offender repeats the violation of the bylaw after the seven (7) day notice period and within the next succeeding twelve (12) months.
4. Informal Resolution of Violations: Following the filing of a notice of violation but where a landowner is cooperating with the Zoning Administrator in rectifying a violation, the Zoning Administrator has the authority to enter a written agreement to resolve the violation. The Zoning Administrator, however, is under no obligation to enter any agreement.
  - a. At minimum, any agreement must:
    - (1) Be in writing and be signed by both the offender and Zoning Administrator.
    - (2) Establish a timeline for curing the violation.
    - (3) Give written authorization that will allow the Zoning Administrator to inspect the premises to ensure compliance upon completion or by the agreed upon date of completion.
  - b. The Zoning Administrator is prevented from making any agreement allowing a violation to continue in perpetuity, even if the violation is minimal, inadvertent, and/or the offender

agrees to pay a fine [§4448(a)].

5. Enforcement Action: Where a property owner fails to remedy a violation within the seven (7)-day period or the timetable agreed to under an informal resolution, the Zoning Administrator, in the name of the municipality, shall bring appropriate action to enforce the provisions of these bylaws [§4452]. The appropriate action is typically an action in either Environmental or Superior Court although other actions are available.
6. Limitations on Enforcement: The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454] including the following:
  - a. An enforcement action relating to any zoning permit must be instituted within fifteen (15) years of the date the alleged violation first occurred and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
  - b. No action, injunction, or enforcement proceeding may be instituted to enforce an alleged violation of a zoning permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the zoning permit or a notice of the permit was recorded in the land use records of the municipality as required by the Act [§4454(b)].
  - c. Nothing in the section shall prevent any action, injunction, or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to a municipality's authority under Title 18 relating to the abatement and removal of a public health risk or hazard [§4454(c)].
7. Fines: Any person who violates these bylaws shall be fined not more than the amount permitted under the Act [§4451(b)], which at the time of development of these bylaws is \$100. Each day that a violation is continued after the initial seven (7) day notice period shall constitute a separate offense. All fines imposed and collected shall be paid to the Town of Wolcott.
8. Posting and Recording Requirements. The Zoning Administrator shall meet all posting and recording requirements of section 2.07 regarding notices of violation.

## 2.06 Fees

1. The Selectboard may prescribe reasonable fees to be charged with respect to the administration of these regulations and for the administration of development review. These fees may include the cost of posting and publishing notices and holding public hearings and the cost of conducting periodic inspections during the installation of public improvements. These fees may be payable by the applicant upon submission of the application or prior to issuance of plat approval [§4440(b)].
2. The Selectboard may set reasonable fees for filing of notices of appeal and for other acts as it deems proper, the payment of which shall be a condition for filing the notice [§4440(c)].
3. The fee schedule may include a process and provisions that require applicants to pay for reasonable costs of an independent technical review of their applications [§4440(d)].

4. An applicant may be charged the cost of the recording fees as required by law [§4449(c)(2)].
5. The schedule of fees shall be posted in the offices of the Municipal Clerk and Zoning Administrator, and may be altered or amended only by resolution of the Selectboard.

2.07 Posting and Recording Requirements

1. Posting: Within three (3) days following the issuance of sketch plan or plat approval, the Zoning Administrator shall post a copy of the permit in the Town Clerk's Office until the expiration of the appeal period [§4449(b)(2)]. Notice must also be posted within view of the public right of way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period [§4449(b)] and information as to where a full description of the project and approval can be found.
2. Recording Plats with the Town Clerk: Following the appeal period (30 days) but within 180 days after the approval of a final plat by the DRB or certification by the clerk of the DRB's failure to act within 45 days, the subdivider shall submit the final plat, including all endorsements, for recording in the Town Clerks Office [§4463(b)].
  - a. Such final plat shall:
    - (1) Be on a mylar sheet(s) of 24 inches by 18 inches.
    - (2) Have all lettering and data which is clear and legible.
    - (3) Have all sheets with margins having a minimum one-half inch margin, except at the binder side, which shall have a minimum of one and one-half inches margin.
    - (4) Meet any other requirements established in Chapter 17 of Title 27 Vermont Statutes Annotated.
    - (5) Be signed by an authorized member of the DRB and the Zoning Administrator.
    - (6) Contain the recording requirements of the town clerks office below.
  - b. The DRB approval, or certification by the clerk of the failure of the DRB to act, expires after 180 days [§4463(b)]. Any plat not submitted to the Clerk's Office for recording within 180 days shall be null and void.
  - c. At the time of filing of the plat, the applicant shall supply a GIS compatible map with the following information:
    - (1) Each orthophoto's sheet number(s), name(s), and date(s); subdivision outline with lot lines drawn to scale within, and location information in relation to Vermont State Plane Coordinates. To supply this information the applicant shall provide, on a mylar overlay (of the appropriate orthophoto sheet(s)) at a scale of 1:5,000, an outline of the subdivision, with the proposed lot lines drawn to scale, within the subdivision outline. On the same mylar overlay, show how the subdivision parcel relates to the orthophoto's corner by either:
      - i. Marking all four corners of the orthophoto with an open centered cross that traces the photo's corner, and then drawing in the parcel, in relation to the four corners (on a minimum 36 by 35 inch mylar overlay); OR
      - ii. Tracing the orthophoto's 500 meter "white line" grid for an area larger than the size of the parcel (but not less than four grid boxes), and then drawing in the parcel, to scale, in relation to the grid. If the grid option is used, the location of the grid within the orthophoto must be indicated on

the mylar (by indicating the location of the grid to the State Plane Coordinate of the upper left hand corner of the ortho-photo and the lower right hand corner). The size of the mylar overlay sheet must allow a minimum of a two inch border on all sides of the outer most portion of the grid. The applicant shall also supply the orthophoto's sheet name(s), number(s), and date(s) on the mylar.

3. Recording with the Listers: Within three (3) days following the issuance of an approved plat the Zoning Administrator shall deliver a copy of the permit to the Town Listers [§4449(b)(1)].
4. Recording Permits with the Town Clerk: Within thirty (30) days after the issuance of any of the items listed below, the Zoning Administrator shall deliver the original, or a legible copy, of the issuance to the Town Clerk for recording in the municipal land records [§4449(c)(1)].
  - a. The following issuances are covered in this subsection:
    - (1) Notices of violation; and
    - (2) Notices of denial of a final plat. [§4449(c)(1)(A)]
  - b. Any issuance delivered for recording shall list:
    - (1) As grantor, the owner of record title to the property at the time of issuance;
    - (2) As grantee, the municipality issuing the permit, certificate, or notice – i.e. *the Town of Wokott*;
    - (3) The municipal office where the original, or a true, legible copy of the issuance may be examined;
    - (4) Whether an appeal of such issuance was taken; and
    - (5) The tax map lot number or other description identifying the lot [24 V.S.A. §1154(c)].
  - c. Temporary permits issued under these bylaws are not required to be recorded [24 V.S.A. §1154(b)].
  - d. Where a Zoning Administrator or the DRB failed to act in a timely manner with regard to an above issuance, the applicant may submit the above required information, with certification by the Town Clerk that the Zoning Administrator or DRB failed to act, to the Town Clerk for recording in the municipal land records.
5. Recording DRB Minutes and Findings with the Town Clerk: The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions. For each case heard and decided, the DRB shall make written findings of fact and conclusions of law that shall be maintained in the Town Clerk's Office together with all minutes and other records of the DRB [§4461(a)].
6. Zoning Administrator records: The Zoning Administrator shall maintain a record of development including:
  - a. A copy of the subdivision plat recorded in the Town Clerks Office. [§4449(c)(1)(B)].
  - b. Copies of all evidence presented, public notices, hearing minutes, findings of fact and other material collected by the Zoning Administrator or DRB in the process of reviewing an application.

- c. All temporary permits issued or denied under these bylaws. The Zoning Administrator must keep a copy of all temporary permits for a period of one (1) year following the expiration of said permit.
- d. For any permits issued within the Flood Hazard Area Overlay District:
  - (1) A record of all permits issued for development in areas of special flood hazard;
  - (2) A copy of the elevation certificate;
  - (3) All floodproofing certifications required under this regulation; and
  - (4) All variance actions, including justification for their issuance.

## Section III. – **DEVELOPMENT REVIEW PROCEDURES**

### 3.01 Subdivision- Plat Review

1. Plat approval is required for all applications for subdivision.
2. Plat - Application requirements: The plat shall consist of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to scale, showing or accompanied by the following information:
  - a. A map of the property prepared by a registered land surveyor, registered civil engineer, or registered architect, showing the existing conditions including:
    - (1) The number of acres within the proposed subdivision; location of existing property lines; existing easements, deed restrictions, and existing features; including buildings; wooded areas; roads; water courses and wetlands; existing foundations, hedgerows, stonewalls and fence lines; and other existing physical features, including large trees, rock outcroppings and prime and statewide agricultural soils.
    - (2) All parcels immediately adjacent to the proposed subdivision, including those separated by a public or private right-of-way, with the names and addresses of owners of record of such adjacent acreage.
    - (3) Any zoning district boundaries applicable to the proposed subdivision.
    - (4) Location and size of any existing sewers and water mains, individual or community sewage disposal systems, wells, culverts, and drains on the property to be subdivided.
  - b. A subdivision plat, prepared by a registered land surveyor showing:
    - (1) The proposed lot lines; access location, proposed lot uses, the location of proposed water, wastewater and utilities; structures and their use; streets, curbs sidewalks and pedestrian ways including lighting; and land to be set aside for public use.
    - (2) At the discretion of the subdivider, building envelopes may be included.
    - (3) A vicinity map drawn at the scale of not over 400 feet to the inch showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
    - (4) Name and address of the proposed subdivision.
    - (5) Name and address of the owner of record of the property and of adjoining properties. Name and address of person or firm preparing the map.
    - (6) Date, true north arrow, and scale.
    - (7) Total acreage of the subdivision and each proposed lot with lots numbered and identified.
    - (8) All parcels of land proposed to be dedicated to public use and conditions of such dedication.
    - (9) Sufficient data acceptable to the DRB to determine readily the location, bearing, and length of every street line, lot line, building envelope, boundary line, and to reproduce these lines on the ground.
  - c. Location of temporary markers adequate to enable the DRB to locate readily and appraise the basic layout in the field.

- d. The following supporting documentation:
    - (1) Written description including construction sequence and time schedule for completion of each phase of the subdivision.
    - (2) Copies of proposed deeds, agreements, or other documents showing the manner in which streets and open space, including park and recreation areas, are to be dedicated, reserved, and maintained, and in which significant natural resources are to be protected and maintained, as applicable. The Town of Wolcott assumes no responsibility or obligation to accept any areas, roads, or other properties proposed to be dedicated to the Town.
    - (3) Any other documents required by the DRB as a result of sketch plan approval.
  - e. All proposed subdivisions that abut a state highway or Class 1 road must receive a state access permit prior to final plat approval.
3. Public Hearing: A public hearing after public notice shall be held by the DRB at the earliest available meeting to determine whether the proposed use conforms to the general and specific standards for conditional uses in these regulations [§4464(a)(1)].
- a. Public notice for any hearing shall be given by publication of the date, place, and purpose of such hearing in [§4464]:
    - (1) a newspaper of general circulation in the Town;
    - (2) a mailing of such notice to the applicant;
    - (3) a posting of such notice in three or more public places within the municipality including;
      - i. the Town Clerks Office; and
      - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made; and
    - (4) written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
  - b. The public notice of the hearing shall not be given less than 15 days prior to the date of the hearing [§4464(a)(1)].
  - c. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The applicant is required to bear the cost of the public warning including administrative costs.
  - d. All hearings regarding a subdivision plat are open to the public. [§4461(a)]
  - e. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in section 7) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons. [§4461(b)]
  - f. Any hearing may be recessed by the DRB, pending submission of additional information,

from time to time provided, however, that the date and place of the hearing shall be announced at the hearing [§4464(b)(1)].

4. General standards. In reviewing a subdivision plat, the DRB must consider all of the subdivision standards required as a condition of sketch plan review and any additional regulations deemed relevant including other applicable local bylaws:
  - a. The proposed subdivision meets the general regulations and review criteria of Subsection 4-A of these regulations.
  - b. Where a subdivision involves a non-conforming lot or subdivision, that the proposal meets the standards established in Subsection 4-B.
  - c. The proposed subdivision conforms to the zoning bylaw, any capital budget and program in effect, any official map in effect, the local sewerage ordinance, and any other municipal bylaw in effect.
  - d. Any proposed waivers have been properly decided under section 3.02 these regulations.
5. Conditions of Approval. Where deemed necessary, the DRB may attach conditions to the approval of any sketch plan including:
  - a. Master Plan Review: The DRB may require a description of the potential build-out of the entire parcel and adjacent parcels even if the application only includes a portion of the parcel(s).
    - (1) When required, the Master Plan build-out shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses. The build-out may be drawn in a sketch plan format. The DRB may require that the build-out be submitted as part of final plat approval.
    - (2) Requirements of the Master Plan review are intended to ensure the orderly development of the town, and will be required when the DRB determines that the development currently under review may have an impact on the future developability of the remaining parcel or adjacent parcels. It may also be required when the DRB determines that the future build-out of the applicant's holdings, combined with the current proposal may have a significant impact on the Town of Wolcott.
    - (3) Approval of an applicant's current application does not constitute approval of the Master Plan build-out.
  - b. Completion requirement or Performance bonding: For any subdivision which requires the construction of roads or other public improvements by the applicant, the DRB may require that no zoning permit, except for any permit that may be required for infrastructure construction, may be issued for an approved development unless the streets and other public infrastructure are satisfactorily installed in accordance with the approved decision and pertinent bylaws. [§4464(b)(4)]

In lieu of completion of the required public improvements, the DRB may require from the subdivider for the benefit of the municipality a performance bond issued either by a bonding or surety company approved by the Selectboard or by the owner with security

acceptable to the Selectboard in an amount sufficient to cover the full cost of those new streets and required improvements on or in those streets or highways and their maintenance for a period of two years after the completion as is estimated by the DRB or such municipal department or officials as the DRB designates. This bond or other security shall provide for, and secure to the public, the completion of any improvements that may be required within the period fixed for that completion and for the maintenance of those improvements for a period of two years after completion. [§4464(b)(4)]

The form, content, amount and manner of execution of such bond or surety shall be to the satisfaction of the Selectboard. The term of such bond or surety may be fixed for a maximum of three years, within which time period said improvements must be completed. The term of such bond or surety, may with mutual consent of the DRB and applicant, be extended for an additional period not to exceed three years. [§4464(b)(2), §§4464(b)(4 - 6)]

- c. Phasing: At the time the DRB grants plat approval, it may require the plat to be divided into two or more phases to be developed at separate times. The DRB may impose specific conditions for the filing of an application for zoning permits to ensure the orderly development of the plat and coordination with the planned and orderly growth of the town as reflected in the town plan and any capital budget and program in effect. [§4422]
  - d. The DRB may impose other conditions of approval as necessary to protect the public safety and welfare and to ensure compliance with the Town Plan, these regulations, and other bylaws and ordinances in effect [§4464(b)(2)].
6. Decision: The DRB shall approve or disapprove such plat within 45 days after the completion of the public hearing, or any continuation of the hearing. If the DRB fails to act within 45 days the subdivision plat shall be deemed approved [§4464(b)(1)]. All decisions shall be sent by certified mail within the time period to the applicant. Copies of the decision shall also be mailed to every person appearing and having been heard at the hearing [§4464(b)(3)].
- a. Contingent approval: The approval of any subdivision requiring a State Subdivision Permit, an Act 250 Permit, a Public Building Permit, or any other state, federal, or local permits noted by the DRB shall be classified as Contingent Approval. Such subdivision shall be considered approved contingent upon no further changes made to accommodate any other permit.
    - (1) All plats granted Contingent Approval shall be submitted for review by the DRB after all other necessary permits have been received. The DRB shall review for acceptance, any changes which have been made by other permitting authorities or by the subdivider to conform to other permit requirements. If no changes have been made, or if the DRB deems all changes acceptable, the subdivision shall be given Final Approval.
  - b. Final Approval: The approval of any subdivision that does not require other permits shall be classified as Final Approval. The final plat requires two endorsements prior to being filed with the Town Clerk. First, the final approved plat shall be endorsed by the Chair of the DRB or other duly authorized board member. The second endorsement is the Zoning Administrator who shall not endorse the plat until after the appeal period

has passed and all appeals have been adjudicated.

- c. Disapproval: The disapproval of a subdivision plat shall state, in writing, the reasons for such denial and be sent along with, or as a part of, the notice of decision.
7. Effect of Final Plat Approval: The approval by the DRB of a final subdivision plat shall not be construed to constitute acceptance by the municipality of any street, easement, utility, park, recreation area, or other open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Selectboard in accordance with state statutes. Each approval shall contain a time limit within which all improvements shall be completed, not to exceed three years unless otherwise required or extended by the DRB. [§4463(c)]
8. Appeals: Appeals of the decision of the DRB may be made to the Environmental Court, as per section 2.04, within thirty (30) days of the date of decision [§4471].
9. Posting and Recording Requirements: The DRB shall file its decision with the Zoning Administrator, for posting and filing in the land use records, and the Town Clerk for filing as part of the public record [§4464(b)(3)]. All posting and recording shall be in compliance with section 2.07.

### 3.02 Waivers

1. An applicant may receive relief from a provision of these subdivision regulations through the granting of a waiver by the DRB. [§§4418(2)(A)]
2. Purpose: The purpose of a waiver is to address special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety, and general welfare or because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.
3. Application: The Town of Wolcott treats waivers as appeals, therefore a notice of appeal for a waiver shall be filed with the clerk of the DRB prior to or concurrent with the submission of the respective subdivision plat, in writing and include:
  - a. The name and address of the appellant.
  - b. A brief description of the property with respect to which the waiver is requested.
  - c. A reference to applicable regulation provisions for which relief is requested.
  - d. The nature of the relief requested by the appellant.
  - e. The alleged grounds why such relief is believed proper under the circumstances (i.e. how the proposal meets all requirements of this section).
4. Public hearing: A public hearing shall be held by the DRB at the earliest available hearing of the DRB. A hearing for an appeal for a waiver can be held concurrently with plat approval provided the waiver appears in the purpose of the hearing as warned. [§4464(a)(2)]
  - a. Public notice for any hearing shall be given not less than seven (7) days prior to the date of the public hearing and shall include the date, place, and purpose of such hearing. Public

notice shall be: [§4464(a)(2)]

- (1) Mailed to the appellant;
  - (2) Posted in three or more public places within the municipality including:
    - i. The town clerks office; and
    - ii. Within view from the public right of way most nearly adjacent to the property for which the application is made.
  - (3) Written notification of such notice to the applicant and to the owners of all properties adjoining the property subject to development, without regard to the public right of way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceedings is a prerequisite to the right to take any subsequent appeal.
  - (4) If any portion of the parcel lies within 500 feet of a municipal boundary, a copy shall be sent to the clerk of the adjacent municipality. [§4463(a)]
- b. The Zoning Administrator shall notify adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service. The applicant is required to bear the cost of the public warning including administrative costs.
- c. All hearings regarding a waiver are open to the public. [§4461(a)]
- d. In any hearing, there shall be an opportunity for each person wishing to establish status as an interested person (as defined in section 7) to demonstrate that the criteria set forth in the definition are met and that the DRB keep a written record of the name, address, and participation of each of the persons. [§4461(b)]
- e. Any hearing may be recessed by the DRB, pending submission of additional information, from time to time provided, however, that the date and place of the hearing shall be announced at the hearing [§4464(b)(1)].
5. General Standards: The DRB may waive, subject to appropriate conditions, subdivision application requirements, and subdivision standards under these regulations.
- a. The conditions for a waiver of an application requirement or subdivision standard are:
    - (1) The requirement or standard is not requisite in the interest of the public health, safety, and general welfare; **or**
    - (2) The requirement or standard is inappropriate due to extraordinary and unnecessary hardship may result from the strict compliance of these regulations; **or**
    - (3) The requirement or standard is inappropriate because of inadequate or lack of connecting facilities adjacent to or within proximity of the subdivision. [§4418(2)(A)]
6. Decision: The DRB should close the hearing promptly after all parties have submitted requested information. The DRB decision shall be issued within forty-five (45) days of completing the hearing. The DRB decision must be in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of conclusions. Failure to render a decision within the required period shall be deemed approval. [§4464(b)(1)]

Copies of any DRB decision shall be sent to the applicant (by certified mail) and to every person or party who was heard at the hearing. [§4464(b)(3)].

7. Conditions of Approval: In rendering a decision in favor of an applicant for a waiver, the DRB may attach such conditions to such waiver as it may consider necessary and appropriate under the circumstances to implement the Act and/or the Town of Wolcott Municipal Development Plan as most recently adopted or these regulations or other municipal ordinances or regulations.
8. Appeals: Appeals of the decision of the DRB may be made to the Environmental Court, as per section 2.04, within thirty (30) days of the date of decision [§4471].
9. Posting and Recording Requirements: The DRB shall file its decision with the Zoning Administrator, for posting and filing in the land use records, and the Town Clerk for filing as part of the public record [§4464(b)(3)]. All posting and recording shall be in compliance with section 2.07.

## Section 4. – **GENERAL REGULATIONS AND REVIEW CRITERIA**

### Subsection 4-A. – **Subdivision Plat Review Criteria**

#### 4.01 Dimensional Requirements

1. No lot shall be created that does not meet the minimum area, dimensional, and frontage requirements of the district in which it is located unless approved as a part of a Planned Unit Development (PUD).
  - a. Area. No new lot created shall have an area less than the minimum area as required of the district in which it is located. Zoning rules and provisions are used to calculate area.
  - b. Dimensions. No new lot shall have a minimum width or depth dimension less than 75 feet, and the smaller lot dimension (width or depth) shall not be less than 30% of the larger dimension.
  - c. Frontage. All new lots created shall have a frontage on a public or private road. An easement or permanent right of way is not a substitute for frontage. Existing landlocked parcels, therefore, cannot be subdivided without approval and construction of a private street (an approved easement is insufficient to permit subdivision). The minimum frontage required is established by the district in which it is located. Zoning rules and provisions are used to measure frontage.
    - (1) Existing lots without frontage cannot be developed under zoning without an approved permanent easement or right of way. Existing lots without frontage may be granted a permanent easement or right of way by the DRB provided [§4418(1)(B)]:
      - i. The right of way is at least 20 feet in wide;
      - ii. Is suitable to be developed as a driveway;
      - iii. Meets access location requirements;
    - (2) Where an easement is intended to provide access to more than one lot, including situations where subdivision of a landlocked parcel is proposed, a private road may be approved by the DRB provided:
      - i. The right of way is at least 50 feet wide;
      - ii. Meets all standards for access and the construction of the private street.
  - d. Shape. Dogleg lots, bowling alley lots, and lots otherwise contorted in order to get around these regulations are not permitted. Lot lines may be designed to follow existing land characteristics such as land contours, fence lines, roads, and paths, as well as to protect significant natural resources or to avoid excessive slopes, water courses, wetlands, and where no other form of subdivision or PUD is possible.
  - e. New or adjusted lot lines cannot cause an existing structure to become a non-complying structure. If the structure was already non-complying then the new or adjusted lot lines cannot increase the degree of non-compliance as defined in section 4.11 of the Town of Wolcott Zoning Bylaws.

New or adjusted lot lines cannot cause a non-conforming lot or non-conforming subdivision to increase the degree of nonconformance as defined in section 4.20 of these regulations.

- f. Monuments & lot corner markers. Permanent monuments and corner markers shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

#### 4.02 Access to lots- Location

1. Purpose. The purpose of the access requirements is for the Town to ensure safe and efficient entrance and exit from public and private highways, to reduce damage from flooding events, to mitigate erosion and stormwater runoff impacts, and to ensure quality construction of driveway accesses. All proposed subdivision plats must provide locations for access. No lot shall be created which does not have legal access onto a class 1, 2, or 3 highway.
2. Coordination with other local and state permits. The DRB (or Zoning Administrator as appropriate), Selectboard, and VTrans have separate authority in approving accesses.
  - a. Through these regulations, the DRB has authority over accesses onto private roads.
  - b. The Selectboard has all authority over accesses onto local highways.
  - c. VTrans requires a state highway access permit prior to any development or subdivision of land abutting a state highway. VTrans has full authority over these accesses although the DRB may provide comment and recommendations to VTrans.
3. No new lot shall be created without legal access onto a public or private highway.
  - a. Any proposed access on a private road must meet the access requirements contained within the *Town of Wolcott Highway Standards Ordinance*.
  - b. Any proposed subdivision on a local highway must receive an access permit from the Road Foreman prior to approval of the subdivision.
  - c. Any proposed development on a state highway must have a state highway access permit from VTrans prior to approval of the subdivision.

#### 4.03 Usable lot requirement

1. Purpose: The purpose of this provision is to ensure that no lots intended to be developed are unusable. The review and approval in this provision is no guarantee of zoning approval. The property owner gains no vested right to develop the lot based on the subdivision approval. Permission to develop and use a lot is only granted through the issuance of a zoning permit. It is therefore recommended that a zoning permit is pursued at the same time as subdivision plat approval - but it is not required.
2. New lots must have some potential permissible use. The DRB will not allow the creation of an unusable lot. No lot shall be approved until it is determined that the lot can meet the requirements of the Town of Wolcott Zoning Bylaws for that use. The property owner does not need to obtain the zoning permit to receive plat approval but may apply for both plat approval and zoning permit approval simultaneously.

3. In order for the DRB to approve a residential lot, for instance, the applicant must prove a location for wastewater disposal (sewer hookup or on-site), water supply, other utilities, a building envelope where a structure could be located that meets all slope, setback and buffer requirements, and any zoning or other ordinance requirement which the DRB determines to be appropriate.
4. Building envelope lines are non-binding and are intended to demonstrate the usability of the lot. An amended subdivision plat is not necessary for future development outside of the building envelope. Also, the building envelope does not vest any rights to construct within that area.
5. The DRB may require an applicant to obtain a permit before approving a subdivision if, in the opinion of the DRB, the approval of such permit is in doubt or question.
6. Lots subdivided for conservation or preservation purposes must clearly be noted on the plat and the deed for the parcel.

#### 4.04 Water systems

1. Municipal Systems. For subdivisions utilizing any public water supply system, the subdivider shall provide evidence that the existing system will adequately meet the needed demand, or if the system will not meet the demand, the subdivider will provide a plan for upgrading the system to meet the expected demand and provide a bond or security (to the satisfaction of the Selectboard) to cover all or part of the costs of the necessary improvements. Applicant must also be able to demonstrate the ability to obtain all permits necessary to extend utilities, if necessary.
2. Community Systems. Community water systems shall be designed and installed in accordance with all applicable municipal and state regulations and standards. Community systems may be required to be designed in such a way that they may eventually be connected to a municipal water supply system. Long-term provisions for the replacement and maintenance of these systems by the users must be provided in a form acceptable to the Selectboard.
3. Individual Water Supplies. If the proposed development is to be serviced by individual wells, the applicant shall provide evidence of the location and availability of potable water in adequate quantities. Applicants may be required to enable sharing of identified water sources among lot owners where applicable.
4. Standards. The following standards shall be met for developments being serviced by either a community water system or individual wells:
  - a. Proposed well site(s) must be identified on plat including any associated well shield. All well(s) must meet *water supply-well shields and isolation distances* provisions described in the Town of Wolcott Zoning Bylaws.
5. Fire Hydrants, Fire Ponds & Dry Hydrants. Where required by the DRB or Fire Chief, fire hydrants shall be installed by the subdivider. All hydrants must be installed to the specifications of the Wolcott Fire Department. Fire ponds and/or dry hydrants may be required for major subdivisions and other developments remote from existing water sources adequate for fire fighting. Fire ponds and dry hydrants shall be accessible for use in an emergency on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the state or National Wetland Inventory.

#### 4.05 Wastewater Disposal

1. Municipal Systems. For subdivisions that will connect to a municipal sewage disposal system, applications for extensions and hookups shall be approved by the officers and agents of the Selectboard entrusted with the care and superintendence of the municipal sewage disposal system. Applicant must also be able to demonstrate the ability to obtain all permits necessary to extend utilities, if necessary.
2. Community Systems. Community wastewater disposal systems shall be designed and installed in accordance with all applicable municipal and state regulations and standards. Community wastewater disposal systems may be required to be designed in such a way that they may eventually be connected to a municipal wastewater disposal system. Long-term provisions for the replacement and maintenance of these systems by the users must be provided in a form acceptable to the Selectboard.
3. Individual Septic Systems. Individual septic systems shall meet the requirements of the town's applicable subsurface disposal ordinance and all other applicable municipal and state regulations and standards.
4. Standards. Identification of sites for wastewater treatment and any backup sites shall be shown on the plat. Where a new parcel is proposed for a use not requiring a wastewater permit, the plat shall clearly identify the parcel as not having an approved wastewater site. Should the commission determine that the proposed individual septic systems are not subject to any applicable municipal or state regulations, it may require the subdivider to make percolation tests and test holes as directed by the Vermont Department of Environmental Conservation, or determined by a qualified engineer or site technician, with the results thereof being submitted to the commission. The proposed individual disposal system, including the size of septic tanks and leach fields or other secondary treatment device shall be approved by the Vermont Department of Environmental Conservation, or by a qualified engineer or site technician, at the commission's discretion.

#### 4.06 Utilities

1. Locations: All existing and proposed utilities and associated rights of way shall be shown on the final plat and be located as follows:
  - a. The subdivider shall coordinate subdivision design with utility companies to insure adequate and suitable areas for under and above ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.
  - b. Utility corridors shall be shared with other utility and or transportation corridors where feasible, and located to minimize site disturbance, the fragmentation of agricultural, forest and conservation lands, and any adverse impacts to natural, cultural or scenic resources, and to public health.
2. Utility easements: Utility easements of sufficient width shall be provided so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision. Such easements shall be shown on the final plat.
3. Coordination with Selectboard. Where a subdivision will require the construction of utilities within

the right of way of public highway, approval of the Selectboard is required prior to final plat approval.

#### 4.07 Street Design and Layout

1. Applicability of road location and design. The Standards contained herein shall apply to all proposed highways. All new roadways are considered private for purposes of subdivision regulations. Acceptance of private roads by the municipality is subject to the approval of the Selectboard and applications can only be made following the completion of construction. Location and design of roads to these standards in no way ensures acceptance by the Selectboard.
2. Road Design. All roads proposed and constructed under these bylaws shall be designed in accordance with the *Town of Wolcott Highway Standards Ordinance*.
3. Coordination with adjoining properties. The arrangement of roads in the subdivision shall provide for the coordination of roads of adjoining subdivisions and for proper projection of roads through adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required of needed utilities and public services. The DRB may require the set aside of rights-of-way for future development on the lot or adjacent properties. Where, in the opinion of the DRB, topographic or other conditions make such continuance undesirable, or impracticable, the above conditions may be modified.
4. Upgrade to Existing Roads. Where an existing road is inadequate or unsafe, the DRB, in consultation with the Selectboard, may require the subdivider to upgrade the road to the extent necessary to serve emergency vehicles and additional traffic resulting from the subdivision, and to conform to these standards. In situations where a development may require realignment, widening or otherwise increasing the capacity of an existing road, or where municipal plan or capital program indicates that such improvements may be required in the future, the subdivider may be required to reserve land for such improvements. Any existing road that provides either frontage to new lots or access to new roads also shall meet these requirements. Where a subdivision requires expenditure by the municipality to improve existing roads to conform to these standards, the DRB may disapprove such subdivision until the Selectboard certifies that funds for the improvements have been ensured or the subdivider may be required to contribute to any or all of the expenses involved with road improvements necessitated by the project.
5. Road Names & Signs. Roads shall be named in accordance with any municipal road naming ordinance or policy currently in effect. Said named shall be identified on signs designed and located in accordance with municipal policy and shall be clearly depicted on the final plat.

#### 4.08 Curbs, Sidewalks, & Pedestrian Access

1. In areas where the DRB finds highway traffic conditions to be specifically hazardous to pedestrians, the Commission may require rights-of-way or sidewalks for pedestrian travel and access between subdivisions or their parts, such as a school or park or playground. The DRB may require the construction of walks in such right-of-way or of sidewalks along streets where it deems desirable in the interests of public safety and convenience.

#### 4.09 Gutters & Storm-water Management Facilities

1. Municipal Systems. For subdivisions utilizing any public storm-water management facility, the subdivider shall provide evidence that the existing system will adequately meet the needed demand, or if the system will not meet the demand, the subdivider will provide a plan for upgrading the system to meet the expected demand and provide a bond or security (to the satisfaction of the Selectboard or Trustees) to cover all or part of the costs of the necessary improvements. Applicant must also be able to demonstrate the ability to obtain all permits necessary to extend utilities, if necessary.
2. Community Systems. Storm-water management facilities shall be designed and installed in accordance with all applicable state regulations and standards. Community storm-water systems may be required to be designed in such a way that they may eventually be connected to a municipal storm-water system. Articles of association or similar arrangements are required to address long-term care and maintenance of these systems by the users.

#### 4.10 Street & Sidewalk Lighting

1. Street and sidewalk lighting are not required in any subdivision. Where these amenities are proposed to appear in the public right of way, the amenity must meet town standards as established by the Selectboard.
2. Any outdoor lighting must also meet exterior lighting requirements in the Town of Wolcott Zoning Bylaws.

#### 4.11 Recreation areas

1. Subdivisions of greater than 10 lots shall be required to provide some recreational areas for use by residents of the subdivision. The nature of the recreational areas (e.g. playground, ball field, trails, swimming pool, tennis courts) shall be at the discretion of the developer with input from the DRB.
2. Recreation area requirements. All recreation areas shall meet the following requirements:
  - a. The DRB may require the dedication of up to 15% of the total land area of the proposed subdivision for recreation purposes. Such area, to be set aside as common land unless otherwise approved by the commission, shall be of suitable character to serve as parkland, a playground or recreation trail network. [§4417]
  - b. The location, shape, and character of the common land shall be suitable for its intended use.

#### 4.12 Common Land

1. Common land is any area within a subdivision owned in common among the members of the subdivision. Common land may be set aside for the placement and maintenance of community facilities including, but not limited to, recreation areas, wastewater treatment sites, pedestrian walkways, parking lots, and private roads.
2. Common land requirements. All common land shall meet the following requirements:

- a. The location, shape, and character of the common land shall be suitable for its intended use.
  - b. Land held in common shall be subject to appropriate deed restrictions, stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship.
  - c. Common land is generally managed and maintained through articles of association, or similar arrangements, among the members of the subdivision. All costs associated with administering and maintaining common land shall be the responsibility of applicant and/or subsequent landowners.
- 3. Articles of association. Articles of association and related arrangements are contracts within the members of the association, they are not a substitute nor do they supercede these subdivision regulations. Where appropriate, these associations must abide by the conditions established in the permit but neither the Town of Wolcott nor the Zoning Administrator are responsible for mediating disputes within the association.
- 4. Legal review. The DRB reserves the right to have any articles of association or similar arrangement reviewed by an attorney, at the expense of the developer, to ensure basic standards are met-
  - a. Proper establishment of association;
  - b. Long-term care and maintenance of common land including costs are addressed;
  - c. Protection of the municipality in the event of legal challenges.

#### 4.13 Meadowland

- 1. Subdivisions shall be designed to allow the conservation of meadowland for open space and scenic values. Meadowland shall be defined as land, at least 5 acres in size, not occupied by structures, roads, driveways or parking lots and generally remaining in a natural or agricultural condition.
- 2. Preservation of Meadowland. Within any subdivision, provisions shall be made for the preservation of meadowland. The location, size and shape of lands set aside to be preserved for open space shall be approved by the DRB, in accordance with the following:
  - a. Lot lines shall be configured to minimize the fragmentation of meadowlands.
  - b. Roads and utility corridors shall, to the extent feasible, be located to follow existing linear features (e.g. farm roads, stone walls, tree and fence lines), and to avoid significantly subdividing open space.
  - c. Provisions should be made to enable open space designated for agriculture and forestry (silviculture) to be used for these purposes.
  - d. Where meadowland is also productive farmland greater than 25 acres, section 4.14 of this Article also applies.

- e. Open space areas may be protected through the creation of common land.
  - f. Open space areas shall be configured to be contiguous with existing open space lands on adjacent parcels.
  - g. Sewage disposal areas, utility and road right-of-way or easements, and access and parking areas shall not be counted as open space areas except where the applicant can prove, to the satisfaction of the DRB that they will in no way disrupt or detract from the values for which the open space is to be protected.
3. Protection of Open Space. Meadowland may be held as common land or as a part of one of the lots within the subdivision. Where meadowland is held in common, appropriate articles or association or similar arrangements are required to address future use and maintenance of the area.

#### 4.14 Protection of Farm & Forestland

1. Where a subdivision includes 25 acres or more of prime agricultural and/or prime forest soils, the applicant must create subdivision boundaries configured to avoid adverse impacts on prime and statewide agricultural soils and other productive farmland. Methods for avoiding such adverse impacts include but may not be limited to the following:
  - a. Where marginal soils also exist on the site, the creation of a PUD is required with the developable lots clustered away from the farmland. Lot lines shall be located at field and orchard edges or, in the event that no other land is practical for development, on the least fertile soil in order to minimize the loss of productive agricultural land, impacts of existing farm operations, and disruption to the scenic qualities of the site.
  - b. Contiguous patches of agricultural resources identified above shall not be fragmented. The resource should, wherever possible, remain in parcels of not less than 25 acres.
  - c. Vegetated buffer areas may be required between agricultural and other uses to minimize land use conflicts.
  - d. Access roads, driveways, and utility corridors shall be shared to the extent feasible; and where sites include linear features such as existing roads, tree lines stonewalls, and/or fence lines, shall follow these to minimize the fragmentation of productive agricultural land and minimize visual impacts.

#### 4.15 Planned Unit Developments (PUD)

1. No subdivision plat shall be approved for a PUD without meeting the provisions of this section and all other applicable requirements within the zoning bylaws. The DRB shall regulate individual lots through the standard lot approval. It is recommended but not required that an application for plat approval be conducted simultaneous to any approvals for the use of said lots.
2. Purpose: Planned Unit Developments (PUDs) are permitted in order to provide for flexibility in site and lot layout, building design, placement and clustering of buildings, and use of open areas; to promote efficient use of land; to facilitate the efficient and economical provision of streets and utilities; and to conserve the natural resources and scenic qualities of the Town. Accordingly, the DRB may modify the area and dimensional requirements of these regulations simultaneously with

conditional use approval. Such modifications shall be subject to the general and specific conditions and standards in this section and in the district regulations, where applicable. [§§4417]

3. Application Procedure: In addition to material presented for subdivision plat approval, if appropriate, and any zoning permits, conditional use reviews, and site plan reviews being pursued in connection with the PUD, the applicant shall submit 2 copies of the following information to the DRB:
  - a. A statement setting forth the nature of all proposed modifications of this bylaw and the proposed standards and criteria which the applicant proposes for the development, including standards for the design, bulk, and spacing of buildings and sizes of lots and open space.
  - b. Limits of use, if any.
  - c. Plans for the permanent maintenance and/or management of open space areas included within the development.
4. Regulation of lots within PUD: PUDs may be part of an association or lots may be sold as individual lots absent of.
  - a. For those not within an association, such provisions shall be made for the regulation and management of any common land. In these types of PUDs, the use and further subdivision of land are regulated by, but not limited to, these bylaws, the associated subdivision plat and any restrictions placed upon the title of the land.
  - b. For those with an association, limitations and changes of use can be regulated internally through the condominium associated or similar setup. Articles of association are contracts within the members of the association, they are not a substitute for, nor do they supercede any zoning or subdivision bylaws. If given internal approval, the project must still receive DRB approval for such change of use. The Zoning Administrator does not enforce nor mediate disputes regarding any articles of association.
5. Review Standards – Site Plan Review: The following shall be met in order for the DRB to approve the application:
  - a. Predominant uses of the site shall not differ substantially from those allowed within the district where the project is located. Mixed uses shall be so arranged and buffered as to ensure visual and acoustical privacy to residents in the development.
  - b. The open space and common land shall first protect agricultural resources. Recreational, environmental, and other common lands for community facilities shall be secondary where agricultural land is present.
  - c. The area of any pond, lake, or stream shall not be included as any part of the area required for a PUD or as part of the base for any density determination.
  - d. A percentage of the land should be set aside for open space, parks, recreation areas, or other municipal purposes. The amount of land so designated shall be determined on the merits, purposes, and conditions of the individual proposal. Further, the DRB may establish

conditions on the ownership, use, and maintenance of said lands for their intended purposes.

- e. Except as provided below in 'f', in any PUD the number of units shall not exceed the number which could be permitted, in the DRB's judgment, if the land were subdivided into lots in conformance with the applicable district requirements of this bylaw. No lot may be created which does not meet the state's minimum lot size requirements of 1/8 acre and minimum dimension, including frontage, of 40 feet.
- f. The DRB may grant a density increase of up to 50% of the allowable number of units in instances where the site conditions will allow.
- g. The development shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of streams, stream banks, visual and physical access to the Lamoille River, slopes greater than 25%, wetlands, soils, historic sites, natural areas, wildlife habitat, floodplain, and views.
- h. The minimum project size for any PUD shall be 3 acres.
- i. The minimum setback and yard requirements for the district in which the project is located shall apply to the periphery of the development.
- j. The PUD will meet, at a minimum, local and state regulations for sewage disposal and the protection of surface and ground water quality.
- k. The development shall be proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.

#### Subsection 4-B. – **General Lots/Subdivision Criteria**

##### 4.20 Non-Conforming Lots/Subdivisions

- 1. Nonconforming lots or subdivisions means lots or subdivisions that do not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator. [§4303(13)]
- 2. Any non-complying lots or subdivisions may be allowed to exist indefinitely, but shall be subject to the following provisions:
  - a. A small lot is not deemed merged through provisions of the zoning bylaws.
  - b. A non-complying lot or subdivision shall not be resubdivided or be amended in a manner that will increase the existing degree of non-compliance.
  - c. The phrase 'shall not increase the degree of non-compliance' shall be interpreted to mean that the portion of the lot or subdivision that is non-complying shall not increase in size (or decrease in the event of failing to meet minimum standards such as road standards or frontage). Therefore, a boundary line may be adjusted provided the resulting parcel is equal

or more compliant than the parcel prior to amendment.

- d. Changes to a non-complying lot or subdivision for the sole purpose of compliance with mandated environmental, safety, health, or energy codes is permissible with approval by the DRB.

## Section 5. – **DEFINITIONS**

### 5.01 Definitions Generally.

Except as specifically defined below, all words shall carry their customary meanings.

### 5.02 Definitions Specifically.

The following definitions also apply to these Bylaws:

1. Act means the Vermont Planning and Development Act 24 V.S.A., Chapter 117.
2. Adjoining Landowner means any person owning land contiguous to the proposed land development including land separated by a road or road right of way.
3. Building Envelope: A specific area delineated on a plat within which all structures are located, and outside of which no structures are to be located. Building envelope lines are for demonstrative purposes only and are therefore not binding nor do they provide any guarantee of zoning permit approval within the area.
4. Community Open Space: Land not to be developed for building purposes, but to remain permanently available for purposes of recreation, including outdoor facilities and for conservation, including agriculture, for the benefit of neighborhood community, without buildings, except as incidental accessories to agricultural, conservation and recreational purposes and maintenance.
5. DRB is abbreviation for the Town of Wolcott Development Review Board.
6. Frontage is the length of the front lot line for a single parcel of land as measured from the public right-of-way or private street that it borders.
7. Interested Person means anyone meeting the definition of the term as set forth in the Act [§4465(b)]. The definition includes the following:
  - a. A person owning title or property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw who alleges that the bylaw imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.
  - b. The Town of Wolcott or any municipality that adjoins it.
  - c. A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaws of the Town of Wolcott.
  - d. Any ten persons who may be in any combination of voters or real property owners within a municipality listed in subdivision (b) of this subsection who, by signed petition to the DRB, the bylaws of which is at issue in any appeal brought under this title, allege

that the relief requested by a person under this title if granted will not be in accordance with the policies, purposes or terms of the plan or bylaw of the Town of Wolcott. This petition to the DRB must designate one person to serve as the representative of the petitioners regarding all matters relating to the appeal.

- e. Any department and administrative subdivision of the state owning property or any interest therein within a municipality listed in subdivision (b) of this subsection, and the agency of commerce and community development.
8. Isolation distances for water supply systems are the required minimum separation distances as established by the Vermont Water Supply Rules Chapter 21. These include but are not limited to:
- a. Buildings: 10 feet
  - b. Edge of driveway serving less than 3 residences: 15 feet
  - c. Property line: 10 feet unless bordering agricultural crop land in which the isolation distance increases to 50 feet.
  - d. Roadway shoulder or parking lot edge: 25 feet
  - e. Surface water: 25 feet
  - f. Subsurface wastewater piping (sewer) and related tanks (septic): 25 feet
  - g. Limits of herbicide application (utility line ROW): 100 feet where herbicides have been applied in the past 12 months and may be applied in the future but may be increased to 200 feet depending on the active ingredient in the herbicide.
  - h. Concentrated livestock holding areas or manure storage: 200 feet
  - i. Down slope sewage system disposal facilities: 100 feet
  - j. Up slope sewage system disposal facilities: 100 feet
  - k. Hazardous or solid waste disposal sites: 200 feet
9. Public Highways means any state or town highway.
10. Public water systems means any system, or combination of systems owned or controlled by a person, which provides piped drinking water to the public and which:
- a. has at least 15 service connections; or
  - b. serves an average of at least 25 individuals for at least 60 days a year.
11. PUD is abbreviation for Planned Unit Development.
12. Structure means an assembly of materials for occupancy or use, including but not limited to, a

building, mobile home or trailer, billboard, sign, wall or fence.

13. Subdivider: The owner of record of the land to be divided, including any subsequent owner of record making any subdivision of such land or any part thereof.
14. Subdivision: The division of a parcel of land into lots of any size for present or future transfer of ownership.
15. Subdivision Plat: The final drawing or drawings on which the subdivider's plan of subdivision is indicated, prepared as required under the provisions of this regulation, which, when approved by the Commission, is in form to be filed in the offices of the Town Clerk and Listers.
16. Survey plat shall mean a map or plan drawn to scale of one or more parcels of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights (27 V.S.A. §1401).
17. Town means the Town of Wolcott.
18. V.S.A. is abbreviation for Vermont Statutes Annotated.
19. Zoning Administrator shall mean the Zoning Administrator, or the assistant Zoning Administrator appointed in accordance with the provisions of Section 2.01 of these bylaws.