

# Zoning Regulations

for the Town of

# MORETOWN

V E R M O N T



March 1, 2011

# Town of Moretown, Vermont

## ZONING REGULATIONS

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### Adoption History

Moretown's Zoning Regulations were first adopted on September 14, 1976. Subsequent amendments to the 1976 regulations include:

September 12, 1978	(Flood Hazard Regulations)
March 6, 1984	(Signs)
November 8, 1988	(Flood Hazard Revisions)
March 6, 1990	(Light Industry)
March 7, 2000	(Zoning Regulations Revisions)
September 11, 2000	(Traffic Ordinance)*
September 17, 2001	(Animal Control Ordinance)*
March 3, 2003	(Sewage Ordinance)*
July 21, 2003	(Wireless Telecommunications Facilities Interim Bylaw)**
July 21, 2003	(Access and Frontage Requirements Interim Bylaw)**
August 2, 2004	(Quarry Interim Bylaw)**
February 6, 2006	(Zoning Regulations Revisions including Section 3.14 - Telecommunications Facilities)
September 12, 2006	(Revisions to Section 3.5 – Extraction of Earth Resources)
March 4, 2008	(Zoning Regulations Revisions to address NFIP requirements)
March 3, 2009	(Minor revisions to Section 5.2b and Section 7.2 Definitions)
March 2, 2010	(Wind Turbine Regulations- Section 3.16)

\* Ordinance does not appear in these regulations

\*\* These Interim Bylaws have expired

#### Moretown Select Board

John Hoogenboom, Chair  
David VanDeusen  
Robert Roberts.  
Reed Korrow  
Stephanie Venema

#### Moretown Planning Commission

Lucinda Newman, Chair  
Jonathan Siegal  
Dan Lynch  
Rubes Scharges

*Prepared with the assistance of*

**LandWorks**

Middlebury, Vermont

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# ARTICLE I

## AUTHORITY & PURPOSE

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### Section 1.1 Enactment

These regulations are established in accordance with the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117 (the "Act") and shall be known as the "Town of Moretown Zoning Regulations".

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4424, there is hereby established an ordinance for areas of special flood hazard (special flood hazard area) in the Town of Moretown, Vermont.

### Section 1.2 Purpose

The purpose of these regulations is to further the purposes established in the Act [§4302] and to implement the Moretown Town Plan by providing for the preservation of the Town's rural character and significant natural areas; to promote commercial activities in appropriate locations; to encourage the productive use of agricultural and forested lands; to preserve natural and scenic resources; and, to support flexible and creative development which protects the health, safety, welfare, and quality of life of Moretown residents.

### Section 1.3 Application & Interpretation

(A) The application of these regulations is subject to the provisions of all subchapters of the Act as most recently amended. No land development shall commence within the Town except in compliance with the provisions of these regulations. A zoning permit issued by the Zoning Administrator shall be required for all land development as defined herein. Such permit may be issued only in conformance with these regulations and other Town ordinances. Land development shall not include customary maintenance activities.

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

(B) The adoption of these regulations shall not repeal or limit any permit previously issued.

Where these regulations impose a greater restriction upon use of a structure or land than is required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, then these regulations shall control.

### Section 1.4 Adoption, Effective Date and Amendments

These regulations shall take effect immediately after adoption at a regular or special town meeting, in accordance with the Act [§4442]. These regulations may be amended according to the requirements and procedures established in the Act [§4441 and §4442]; any mandatory changes enacted by the state shall automatically become part of these regulations.

**Section 1.5 Severability**

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

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## ARTICLE II ESTABLISHMENT OF ZONING DISTRICTS AND DISTRICT STANDARDS

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### Section 2.1 Establishment of Zoning Districts and Zoning Map

(A) The Town of Moretown is hereby divided into the following zoning districts:

- (1) Village District
- (2) Commercial District
- (3) Agricultural-Residential District
- (4) Preserve District
- (5) Flood Hazard Overlay

(B) The location and boundaries of zoning districts are established as shown on the official “Town of Moretown Zoning Map”, which is made part of these regulations. The locations and boundaries of the Flood Hazard Overlay district are shown on the FEMA FIRM (Flood Insurance Rate Map). The official zoning map and FEMA FIRM shall be located in the Town Clerk’s office and shall be the final authority as to the current zoning status of land and waters in the town.

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

(D) The flood hazard regulations shall apply to all areas identified as areas of special flood hazard in and on the most current flood insurance studies and maps (FEMA FIRM maps) published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

### Section 2.2 Interpretation of Boundaries

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

- (1) Boundaries indicated as following elevation contours shall be construed to follow such contours.
- (2) Boundaries indicated as approximately following the center lines of streams, roads, transportation and utility rights-of-way shall be construed to follow such center lines.
- (3) Boundaries indicated as approximately following property boundaries or platted lot lines shall be construed to follow such lot lines.
- (4) Boundaries indicated as parallel to or extensions of features under subsections (1) and (2)

shall be so construed. Boundaries indicated as lines perpendicular to lines or features described in subsections (2) and (3) shall be construed to proceed at right angles from such lines or features. Distances not specifically indicated shall be determined by the scale of the map.

- (5) The abandonment or relocation of a right-of-way or roadway, or the change in a line or feature which references a district boundary line, after the effective date of these regulations, shall not affect the location of such boundary line.

(B) When the Zoning Administrator cannot definitely determine the location of a district boundary by the scale or dimensions given on the official zoning map and associated overlays or by the above rules, the Development Review Board shall determine said location. A determination by the Zoning Administrator regarding the location of a district boundary may be appealed to the Development Review Board under Section 6.6.

(C) Where a district boundary line divides a lot in single ownership on or after the effective date of these regulations or of amendments thereto, the Development Review Board may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(D) Areas of Special Flood Hazard (Flood Hazard Overlay): This ordinance does not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Moretown or any town official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

### **Section 2.3 Application of District Standards**

(A) The standards for each district apply uniformly to each class of use and/or structure, unless otherwise specified in these regulations. All uses and structures must comply with all prescribed standards for the district in which they are located as set forth in Tables 2.1 - 2.5, unless otherwise permitted under Planned Residential Development (PRD) or Planned Unit Development (PUD) pursuant to Section 5.3. Nonconforming uses and non-complying structures shall be regulated in accordance with Section 4.8.

(B) Flood Hazard Overlay District standards shall be applied concurrently with the standards for underlying districts. Where an overlay district imposes more restrictive standards on the use of a structure or land, the standards of the overlay district shall apply.

(C) Additional Overlay Districts, which may be adopted through amendment to these regulations, shall be applied concurrently with the standards for underlying districts. Where overlay districts impose more restrictive standards on the use of a structure or land, the standards of the overlay district shall apply.

(D) Prescribed uses for each district are classified as **“permitted,”** to be reviewed in accordance with Section 6.2, or **“conditional”** to be reviewed in accordance with Section 5.2.

(E) Any use not permitted by these regulations, unless specifically exempted under Section 6.3, shall be deemed to be prohibited.

## **Section 2.4 Zoning District Objectives, Uses and Specific Standards**

Tables 2.1-2.5 set forth the stated purpose, allowable uses and specific standards for each zoning district.

**Table 2.1**  
**VILLAGE DISTRICT (VLG)**

**(1) Purpose:** The purpose of the Village District is to encourage a concentration of residential, commercial and civic activities within and immediately adjacent to Moretown Village in a manner that respects the Village's small scale, historic character and residential uses.

**(2) Permitted Uses:**

1. Accessory Use/Structure (to a permitted use)
2. Agriculture
3. Cemetery
4. Child Care Facility (6 children or fewer - see Section 3.4)
5. Home Occupation (see Section 3.7)
6. Place of Worship
7. School
8. Single Family Dwelling
9. Subdivision (see Section 3.13)
10. Accessory Dwelling Unit (see Section 3.1)
11. Camp
12. Telecommunication Facility (enclosed inside existing structure, substantially not visible – see Section 3.14 D)

**(3) Conditional Uses (see Section 5.2):**

1. Accessory Use/Structure (to a conditional use)
2. Bank
3. Bed & Breakfast
4. Child Care Facility (greater than 6 children – see Section 3.4)
5. Outdoor or Indoor Recreation Facility
6. Community Center
7. Cottage Industry (see Section 3.7)
8. Gasoline Station (see Section 3.6)
9. Health Clinic
10. Light Industry (see Section 3.8)
11. Mixed Use Building (see Section 3.9)
12. Multi-Family Dwelling
13. Nursing Home
14. Professional/Business Office
15. Public Facilities/Services
16. Public Assembly Facility
17. Restaurant
18. Retail Store
19. Telecommunication Facility (on existing structure – see Section 3.14 C)

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

Lot Area Minimum: .5 acre

Minimum Building Setback: 20 feet  
Minimum Rear Yard Setback: 20 feet  
Minimum Side Yard Setback: 20 feet  
Maximum Building Height: 45 feet

Minimum Lot Frontage: 80 feet  
Minimum Lot Depth: 80 feet

Maximum Building Coverage: 25%  
Maximum Lot Coverage: 50%

**Table 2.2**  
**COMMERCIAL DISTRICT (COM)**

**(1) Purpose:** The purpose of the Moretown Commercial District is to allow for the location and expansion of commercial uses in appropriate locations in a manner that is compatible with residential uses and the Town's rural character.

**(2) Permitted Uses:**

1. Accessory Use/Structure (to a permitted use)
2. Agriculture
3. Child Care Facility (6 children or fewer - see Section 3.4)
4. Forestry
5. Home Occupation (see Section 3.7)
6. Private Club
7. Place of Worship
8. School
9. Single Family Dwelling
10. Subdivision (see Section 3.13)
11. Accessory Dwelling Unit (see Section 3.1)
12. Camp
13. Telecommunication Facility (enclosed inside existing structure, substantially not visible – see Section 3.14 D)

**(3) Conditional Uses (see Section 5.2):**

1. Accessory Use/Structure (to a conditional use)
2. Automobile Sales & Service
3. Bank
4. Bed & Breakfast
5. Child Care Facility (greater than 6 children - see Section 3.4)
6. Community Center
7. Cottage Industry (see Section 3.7)
8. Enclosed Storage & Warehousing
9. Extraction of Earth Resources (see Section 3.5)
10. Gasoline Station (see Section 3.6)
11. Health Center
12. Hotel/Motel
13. Indoor Recreation Facility
14. Light Industry (see Section 3.8)
15. Mixed Use Building
16. Mobile Home Park (see Section 3.10)
17. Multi-Family Dwelling
18. Nursing Home
19. Outdoor Recreation Facility
20. Professional/Business Office
21. Public Facilities/Services
22. Public Assembly Facility
23. Restaurant
24. Retail Store
25. Sanitary Landfill (see Section 4.6)
26. Telecommunication Facility (new tower or on existing structure – see Section 3.14 A, B, & C)

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

Lot Area Minimum:	1 acre	Lot Dimension:	Each lot must have a point from which a circle can be inscribed with a diameter of at least 150 feet.
Minimum Rear Yard Setback:	25 feet		
Minimum Front Yard Setback:	45 feet		
Minimum Side Yard Setback:	25 feet		
Maximum Building Height:	35 feet	Maximum Building Coverage:	25%
Minimum Lot Frontage:	80 feet	Maximum Lot Coverage:	50%

**Table 2.3**  
**AGRICULTURAL-RESIDENTIAL DISTRICT (AG-RES)**

**(1) Purpose:** The purpose of the Agricultural-Residential District is to provide for medium density residential development, to permit the continuance of agricultural operations, to encourage clustered housing units, to preserve open space, and to preserve the significant resources of this District.

**(2) Permitted Uses:**

1. Accessory Use/Structure (to a permitted use)
2. Agriculture
3. Cemetery
4. Child Care Facility (6 children or fewer -see Section 3.4)
5. Forestry
6. Home Occupation (see Section 3.7)
7. Private Club
8. Single Family Dwelling
9. Subdivision (see Section 3.13)
10. Wildlife Refuge
11. Accessory Dwelling Unit (see Section 3.1)
12. Camp
13. Telecommunication Facility (enclosed inside existing structure, substantially not visible – see Section 3.14 D)

**(3) Conditional Uses (see Section 5.2):**

1. Accessory Use/Structure (to a conditional use)
2. Adaptive Re-use of Historic Barns (see Section 3.2)
3. Bed & Breakfast
4. Child Care Facility (greater than 6 children - see Section 3.4)
5. Outdoor Recreation Facility
6. Cottage Industry (see Section 3.7)
7. Extraction of Earth Resources (see Section 3.5)
8. Light Industry (see Section 3.8)
9. Mobile Home Park (see Section 3.10)
10. Multi-Family Dwelling
11. Place of Worship
12. Public Facilities/Service
13. Sawmill
14. School
15. Telecommunication Facility (on existing structure – see Section 3.14 C)

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

Lot Area Minimum:	1 acre	Lot Dimension: Each lot must have a point from which a circle can be inscribed with a diameter of at least 150 feet	
Minimum Front Yard Setback:	65 feet		
Minimum Rear Yard Setback:	25 feet		
Minimum Side Yard Setback:	25 feet	Maximum Building Coverage:	25%
Maximum Building Height:	35 feet	Maximum Lot Coverage:	50%
Minimum Lot Frontage:	80 feet		

**Table 2.4**  
**PRESERVE DISTRICT (PRES)**

**(1) Purpose:** The purpose of the Preserve District is to protect significant forest resources and water supply watersheds at higher elevations and to limit development in areas with steep slopes, shallow soils, unique or fragile resources, and poor access to Town roads and community facilities and services.

**(2) Permitted Uses:**

1. Accessory Use/Structure (to a permitted use)
2. Agriculture
3. Child Care Facility (6 children or fewer - see Section 3.4)
4. Forestry
5. Home Occupation (see Section 3.7)
6. Single Family Dwelling
7. Wildlife Refuge
8. Subdivision (see Section 3.13)
9. Accessory Dwelling Unit (see Section 3.1)
10. Camp
11. Telecommunication Facility (enclosed inside existing structure, substantially not visible – see Section 3.14 D)

**(3) Conditional Uses (see Section 5.2):**

1. Accessory Use/Structure (to a conditional use)
2. Cemetery
3. Child Care Facility (greater than 6 children - see Section 3.4)
4. Extraction of Earth Resources (see Section 3.5)
5. Outdoor Recreation Facility
6. Cottage Industry (see Section 3.7)
7. Sawmill
8. Telecommunications Facility (on existing structure or new tower – see Section 3.14 A, B, & C)

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

Lot Area Minimum:	5 acres	Lot Dimension: Each lot must have a point from	
Minimum Front Yard Setback:	65 feet	which a circle can be inscribed with a diameter	
Minimum Rear Yard Setback:	25 feet	of at least 200 feet.	
Minimum Side Yard Setback:	100 feet		
Maximum Building Height:	35 feet	Maximum Building Coverage:	3%
Minimum Lot Frontage:	80 feet	Maximum Lot Coverage:	6%

**Table 2.5**  
**FLOOD HAZARD AREA OVERLAY DISTRICT (FLD)**

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

**(2) Permitted Uses (see Section 503):**

1. Accessory Uses (see Section 5.2 (E))
2. Agriculture (see Section 4.10)
3. Forestry (see Section 4.10)
4. Outdoor Recreation (no structures)

**(3) Conditional Uses (see Section 5.2):**

All other permitted or conditional uses listed for the underlying district, unless otherwise specifically excluded under Section 5.2 (E).

**(4) Dimensional Standards**

Standards as set forth for the underlying district unless otherwise specified under Article III and/or Article V.

**(5) Flood Hazard Standards:**

(A) Uses permitted within the Flood Hazard Area Overlay specifically include agriculture and forestry, unimproved open space, recreational and educational uses, and those uses generally permitted within existing single-family dwellings (i.e., day care facilities and group homes as defined, and home occupations). All other uses and structures, including but not limited to new or expanded single family dwellings, shall be subject to conditional use review under Section 5.2, as well as all other applicable municipal and state regulations.

(B) Mandatory state [§4424] and federal [44 CFR 60.3 and 60.6] requirements for continued eligibility in the National Flood Insurance Program – including but not limited to associated structural standards, definitions, administrative and variance requirements – are hereby adopted by reference and shall be applied to all development in this district. Accordingly:

- (1) Applications for development within the Flood Hazard Area Overlay District shall be submitted in accordance with the provisions of Sections 5.1 and 6.2, and are subject to state and federal agency referral requirements in accordance with Section 6.4.
- (2) Development in the Flood Hazard Area Overlay District shall be subject to conditional use review under Section 5.2, including criteria under Section 5.2 (E) specific to development within designated flood hazard areas, as well as applicable requirements of the underlying zoning district. Where this overlay imposes more restrictive standards on the construction and use of structures or land, the most restrictive standards shall apply.
- (3) Requests for variances for development within the Flood Hazard Area Overlay District shall be subject to review under Section 6.7, including but not limited to variance criteria under Section 6.7 (C) specific to variances with designated flood hazard areas.

- (4) Permits, certifications and variance actions for development within the Flood Hazard Area Overlay District shall be recorded by the Zoning Administrator in accordance with the provisions of Section 6.9(B).

## **ARTICLE III SPECIFIC USE PROVISIONS**

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### **Section 3.0 Applicability**

The following standards shall apply to the designated use in all zoning districts in which the respective uses are allowed. Such uses may be subject to conditional use review in accordance with Section 5.2. Variances from these standards shall not be granted by the Development Review Board. If there is a conflict between a standard in this section and a standard in another section of these regulations, the more restrictive standard shall apply.

### **Section 3.1 Accessory Dwelling Units**

(A) There shall be only one principal structure per residential lot. However, in accordance with 24 V.S.A. § 4412(1)(E), one accessory dwelling unit shall be permitted that is located within, detached, or attached to a single-family dwelling. An accessory dwelling unit shall be defined as an efficiency or one-bedroom apartment, located within, detached, or attached to a single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- (1) The owner occupies either the primary dwelling or accessory dwelling;
- (2) The property has sufficient wastewater capacity;
- (3) The unit does not exceed 1050 square feet; and,
- (4) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

(B) Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval under Section 5.2 when one or more of the following is involved:

- (1) A new accessory structure, constructed after the enactment of these bylaws;
- (2) An increase in the height or floor area of the existing dwelling; or,
- (3) An increase in the dimensions of the parking areas.

### **Section 3.2 Adaptive Re-Use of Historic Barns**

(A) To encourage the economic viability of maintaining and restoring historic barns which are no longer associated with a viable agricultural enterprise, the following standards shall apply to all barns listed on the Vermont Historic Sites and Structures Survey as being eligible for listing on the National Register of Historic Places.

(B) Notwithstanding the permitted and conditional uses allowed in each district, historic barns may, with the approval of the Development Review Board in accordance with Section 5.2, be converted to the following uses:

- (1) Cultural facilities, including religious institutions, performance space, community centers or museums;
- (2) Warehouse and storage facilities;

- (3) Multi-family housing (not to exceed four units);
- (4) Light industry (excluding outdoor storage or display).

(C) In approving applications for the adaptive re-use of historic barns, the Development Review Board shall ensure that the proposed use complies with all general and/or specific use regulations set forth in these regulations.

### **Section 3.3 Campers**

(A) Campers (travel trailer, recreation vehicle, etc.) may be parked on any public or private property in conformance with the following regulations:

- (1) No permit shall be required to park campers in approved campgrounds and, for temporary periods, on construction sites (subject to Section 3.15).
- (2) No permit shall be required to park a camper(s) on the premises of a principal dwelling or an undeveloped lot provided that it is not occupied for dwelling purposes for more than sixty (60) days per calendar year; and is not hooked up to residential water or wastewater systems.
- (3) Any camper used for living quarters for more than 30 days per calendar year, or is sited so as not to be readily moveable, is deemed a dwelling or accessory dwelling and shall be subject to all zoning regulations.

### **Section 3.4 Child Care Facilities**

(A) In accordance with 24 V.S.A. § 4412(5), a “family child care home or facility” means a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property but requires a zoning permit issued by the Zoning Administrator. Such a permit shall be issued only after the applicant for the family child care facility:

- (1) Submits proof that the facility is properly registered or licensed by the state;
- (2) Meets all zoning district requirements pertaining to single family dwellings; and,
- (3) Fulfills the application requirements of Section 6.2 of these regulations.

(B) A family child care facility serving more than six full-time and four part-time children shall be reviewed as a conditional use in accordance with Section 5.2.

(C) 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:

- Persons providing care for children of not more than two families;
- Hospitals or establishments holding a license issued by the Department of Health, or a person operating a program primarily for recreation or therapeutic purposes;

- 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;
- 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)).

(D) Such uses that meet the above requirements 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.

(E) A state registered or licensed family child care home operating in a dwelling other than a single family dwelling (e.g. duplex, multi-family housing) shall be treated as a permitted use and therefore must receive a zoning permit.

### **Section 3.5 Extraction of Earth Resources**

See Appendix C: Extraction of Earth Resources

### **Section 3.6 Gasoline Stations**

(A) Gasoline or motor vehicle service stations may be permitted in designated zoning districts subject to conditional use review under Section 5.2 and the following additional provisions:

- (1) Service station siting, design and layout shall be compatible with the character of the neighborhood. A landscaped area shall be maintained at least ten (10) feet in depth along all road frontage, excluding designated access areas or curb cuts. Additional curbing, landscaping and screening, and pedestrian walkways may be required as appropriate.
- (2) Pumps, lubricating, and other outdoor service equipment shall be located to meet minimum setback distances for the applicable district.
- (3) All stored fuel and oil, including underground tanks, shall meet all state fire codes and regulations, and shall be stored at least 35 feet from any property lines.
- (4) All automobile parts and dismantled vehicles shall be stored within an enclosed building or suitably screened area.
- (5) There shall be no more than 2 access driveways from the street. The maximum width of an access driveway or curb cut shall be 40 feet, with the minimum width to be 20 feet.
- (6) Pump canopies shall be limited to the area required to cover the pump island and pump-apron, and shall be the minimum height necessary to satisfy applicable state and federal safety requirements. In no case shall canopies exceed 24' in width or 36' in length. Canopy design, including materials and roof pitch, shall be compatible with surrounding buildings; and the sides (fascias) of canopies shall not be used for advertising.
- (7) Lighting levels on station aprons, under canopies and in associated parking areas shall be the minimum required for intended activities. The lighting of such areas shall not be used for advertising or to attract attention to the business. Lights shall not be mounted on the top or sides of canopies; and the sides of canopies (fascias) shall not be illuminated. Light fixtures mounted on canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded so

that direct illumination is focused exclusively on the underside of the canopy. Outdoor lighting shall also meet applicable lighting standards under Section 410.

- (8) Signs shall meet all requirements of Section 4.12. Gasoline service stations, in addition to the signs allowed for businesses, are allowed to have either one pricing sign which does not exceed 12 square feet in area, or pump-top pricing signs, each not to exceed 2 square feet in area. Signs must meet all setback requirements.
- (9) Automobile service stations which include retail sales unrelated to motor vehicle service, maintenance or repair (e.g., food, convenience items) shall be reviewed as a mixed use, and as such is required to meet all zoning provisions pertaining to retail uses for the district in which they are located, including but not limited to additional sign, lot size and/or parking requirements.

### **Section 3.7 Home Based Businesses**

(A) **Home Occupations.** In accordance with the Act [§4412(4)], no provision of these regulations shall infringe upon the right of a 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 residential area in which the dwelling is located. Home occupations, as distinguished from cottage industries under this Section, are permitted as an accessory use in all districts where residential uses are permitted. The home occupation shall be carried on by residents of the dwelling unit. One additional employee who is not a resident of the dwelling unit is permitted. Home occupations are:

- (1) Accessory uses to residential properties, which are clearly incidental and secondary to the residential use.
- (2) Conducted wholly within the principal structure and occupy less than 25% of the entire floor area of such structures. Home occupations in accessory buildings may be permitted by the Development Review Board in accordance with conditional use review under Section 5.2.
- (3) Not retail in nature.

(B) In order to ensure that a home occupation will not have an undue adverse effect upon the residential area in which the dwelling is located, the owner must demonstrate that it will comply with all of the following standards:

- (1) All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit; no outside storage shall be permitted.
- (2) No traffic shall be generated which would be uncharacteristic of the neighborhood.
- (3) New parking required for the home occupation shall be provided off-street.
- (4) No objectionable vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation.
- (5) Exterior displays other than those normally permitted in the district shall be prohibited excepting signs, which do not conflict with applicable ordinances.

- (6) Retail sales shall be limited to the sale of goods or products produced on premises and/or the sale of goods and products that are associated with and clearly incidental to the primary operation of the home occupation.

Where it is determined by the Zoning Administrator that the proposal does not meet the definitions or standards of home occupations in A and B above, the applicant may apply for a permit under the broader regulations (commercial, industrial, etc.) as determined by the district in which the parcel is located.

(C) A zoning permit for a home occupation does not follow the land. Therefore, the permit expires when the individual who was granted the permit no longer resides in the dwelling. If another individual wishes to continue a particular home occupation, he or she shall apply to the Zoning Administrator for a permit.

(D) **Exemptions.** The ordinary use of a small room (study), or part of a larger room, with such equipment as a file (cupboard), desk (table), and a phone which one uses for personal use and/or paperwork for business activity carried on elsewhere, is not considered a Home Occupation and shall not require a zoning permit from the Zoning Administrator.

(E) **Cottage Industry.** Cottage industries (as distinguished from Home Occupations) may be permitted in designated zoning districts subject to conditional use review in accordance with Section 5.2 and the following additional provisions:

- (1) The business owner shall reside on the lot.
- (2) The business shall be carried on within the principal dwelling unit and/or accessory structure(s), and shall occupy less than 50% of the combined floor area of all structures on the lot. However, the Development Review Board may permit the use of floor space in excess of 50% of the combined floor area of all structures on the lot providing such space is limited to the storage of goods and materials associated with the operation of the Cottage Industry and that such storage occurs in an accessory structure.
- (3) The cottage industry shall be carried on by residents of the dwelling. Up to eight employees who are not residents may be permitted.
- (4) The business shall not necessitate any change in the outward appearance of the dwelling unit or accessory structures on the lot. Exterior signs other than those normally permitted in the district are prohibited. Any outdoor storage of materials, including building or construction materials, unregistered vehicles or heavy equipment, or lumber, must be completely screened year-round from the road and from neighboring properties.
- (5) The business shall not generate traffic, including but not limited to delivery truck traffic, in excess of volumes characteristic of the neighborhood.
- (6) Adequate off-street parking shall be provided for all residents, employees and customers in accordance with Section 4.9.
- (7) There shall be no storage of hazardous waste or materials; fuel storage shall be limited to that needed for heating, and operation of equipment and vehicles associated with the business.

- (8) Retail sales shall be limited to the sale of goods or products produced on premises and/or the sale of goods and products that are associated with and clearly incidental to the primary operation of the cottage industry.
- (9) The business shall not result in hazards to public safety and welfare or to neighboring properties, and shall be subject to applicable performance standards included under Section 4.10. Conditions may be placed on the hours of operation as appropriate.
- (10) The permit for a cottage industry shall clearly state that the industry is a home-based business which is accessory to the principal residential use, and to be retained in common ownership and management. A cottage industry may be subdivided and/or converted for sale or use apart from the residential use only if it meets all current municipal and state regulations and bylaws pertaining to such use, including all density, dimensional, and other requirements for the district in which it is located. Separate permits shall be required as appropriate prior to subdivision, sale and/or conversion.

### **Section 3.8 Light Industry**

(A) Light industry (as distinguished from cottage industries under Section 3.7) may be permitted in designated zoning districts subject to conditional use review in accordance with Section 5.2 and the following provisions:

- (1) The industry shall not result in hazards to public safety and welfare or to neighboring properties, and shall be subject to applicable performance standards included under Section 4.10. Conditions may be placed on the hours of operation and/or intensity of use as appropriate.
- (2) Sufficient landscaping and screening shall be provided along parcel boundaries and within the project site to protect adjacent properties from objectionable visual impacts.
- (3) Total square footage of all buildings and outdoor storage areas shall not exceed 20,000 square feet.
- (4) For any light industry in the Agricultural-Residential District, no more than thirty (30) employees may be employed on site at any one time.

### **Section 3.9 Mixed Uses**

(A) In designated districts, more than one use may be permitted within a single building or on a single property subject to conditional use review in accordance with section 5.2 and providing those uses meet the following:

- (1) Each of the proposed uses are otherwise allowed as permitted or conditional uses in the district in which the mixed use is proposed.
- (2) The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, maximum lot coverage and minimum lot size.
- (3) The combined uses meet all applicable dimensional standards set forth in Articles II, and all applicable general provisions contained in Article IV, including parking requirements under Section 4.9 based on the cumulative parking demand for the various proposed uses.

### **Section 3.10 Mobile Home Parks**

(A) In accordance with 24 V.S.A. § 4412(1)(C), mobile homes are permitted in approved mobile home parks subject to the requirements of this section and state law. Mobile home parks where permitted as a conditional use in the specific zoning district are subject to review under section 5.2 of these bylaws. New mobile home parks and any addition or alteration to an existing mobile home park, requires conditional use approval by the Development Review Board. Mobile home parks shall be developed in accordance with the following:

- (1) The mobile home park shall be located in a district specifically permitting mobile home parks and shall comply with all applicable provisions of these regulations.
- (2) The requirements of 10 VSA Chapter 153 shall be met.
- (3) All applicable State and local laws, ordinances and regulations relating to water supply and waste treatment shall be complied with.

(B) Prospective owners of mobile home parks are encouraged to employ the planned residential or clustering concept in design of mobile home parks and to create a pleasant and healthful living environment for occupants.

### **Section 3.11 Ponds**

(A) The creation of ponds and other impoundments may be permitted as an accessory use upon application and receipt of a zoning permit in accordance with Section 6.2. In issuing a zoning permit, the Zoning Administrator shall find that:

- (1) Any pond that will impound, or be capable of impounding, in excess of 500,000 cubic feet of water has received a permit from the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 43.
- (2) Any pond involving the alteration of a stream has received a stream alteration permit from the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 41.
- (3) Any pond involving the impoundment of water through the creation of an embankment, berm or other structure that exceeds the natural grade of the site shall be subject to conditional use review in accordance with Section 5.2. In granting approval, the Development Review Board shall find that the proposed pond poses no danger to neighboring properties or Town roads and bridges. To this end, the applicant shall provide certification regarding the safety of the pond design by a Vermont licensed professional engineer.

### **Section 3.12 Public Utility Substations**

(A) Public utility substations and similar utility structures shall comply with the following:

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

### **Section 3.13 Subdivision of Land**

(A) **Permitted Uses.** A zoning permit issued in accordance with Section 6.2 is required for all subdivisions of land allowed as a permitted use. In issuing a zoning permit, the Zoning Administrator shall ensure that all proposed lots comply with all applicable lot size, setback, area and access requirements of these regulations.

(B) **Conditional Uses.** Subdivisions allowed as a conditional use in any zoning district in accordance with Section 2.4 shall require the approval of the Development Review Board prior to the issuance of a zoning permit. The Board shall find that the proposed lot(s) to be created is of such a character that it can be used for the intended purpose and density of use in a manner that is consistent with the standards set forth in Section 5.2 and any standards applicable to the zoning district(s) in which the proposed subdivision is located.

### **Section 3.14 Telecommunications Facilities**

(A) New or expanded telecommunication facilities, including but not limited to towers and accessory structures may be permitted in designated zoning districts subject to conditional use review under Section 5.2 and the following provisions:

- (1) A proposal for a new tower shall not be permitted unless it is determined by the Development Review Board that the equipment planned for the proposed tower cannot be accommodated on an existing approved tower not on or in an existing building or other structure. New towers will be allowed only in the Preserve and Commercial Districts.
- (2) All new towers shall be designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user if the tower is less than or equal to 75 feet in height, and two additional users if it exceeds 75 feet in height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights.
- (3) All towers, including antennae, shall not be more than 25 feet higher than surrounding forest canopy as measured from the lowest grade at ground level to the top of the highest structure or component. Forest canopy shall be defined as the average height of the five (5) tallest trees within 50 feet of the tower.
- (4) No telecommunication facility shall be located within 500 feet of an existing residence.
- (5) Towers shall be set back from all property lines and public rights of way for a distance equaling their total height, including attached antennas, unless otherwise permitted by the Development Review Board:
  - a. If tower design and construction guarantees that it will collapse inwardly upon itself, and no liability or risk to adjoining or public property shall be assumed by the municipality; or
  - b. To allow for the integration of a telecommunication facility into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.

- (6) Telecommunication Facilities shall meet all state and federal requirements, including but not limited to Federal Communication Commission requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety.
- (7) New telecommunications facilities shall be located to minimize their visibility. No telecommunications facility shall be located on a ridge line or hill top, and shall be sited so that the highest point of the facility does not exceed the highest point of land in the immediate vicinity of the tower. New or modified telecommunication facilities shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques. Towers shall be of a monopole design unless it is determined by the Board that an alternative design would better blend into the surrounding environment.
- (8) Telecommunication Facilities shall be designed to avoid having an undue adverse aesthetic impact on prominent ridgelines and hilltops. In determining whether a telecommunication facilities' aesthetic impact would be undue and adverse, the Development Review Board will consider:
  - a. The period of time during which the proposed tower would be viewed by the traveling public on a public highway;
  - b. The frequency of the view experienced by the traveling public;
  - c. Background features in the line of sight to the proposed telecommunication facility that obscure the facility or make it more conspicuous;
  - d. The sensitivity or unique value of a particular view affected by the proposed telecommunication facility;
  - e. Significant disruption of a view shed that provides context to a historic or scenic resource.
- (9) Towers shall be enclosed by security fencing at least 6 feet in height, and shall be equipped with appropriate anti-climbing devices.
- (10) Telecommunications facilities shall not be illuminated by artificial means and shall not display strobe lights unless the Federal Aviation Administration or other federal or state authority for a particular tower specifically requires such lighting.
- (11) The use of any portion of a telecommunications facility for signs other than warning or equipment information signs is prohibited.
- (12) Access roads, and all utility buildings and structures accessory to a telecommunications facility shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate to site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed under ground.
- (13) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease that requires the applicant to remove the tower and associated facilities shall be submitted at the time of application. A bond or other acceptable form of surety may be required to ensure tower removal and site reclamation.

(B) In addition to the site development plan required under Section 5.1, applications for new telecommunications facilities shall also include:

- a. A report from a qualified and Vermont licensed professional engineer which describes telecommunication facility height, construction design and capacity, including cross-sections, elevations, potential mounding locations, and fall zones;
- b. Information regarding the availability of existing telecommunications facilities located within the site search ring for the proposed site, including written documentation from other telecommunications facility owners within the search ring that no suitable sites are available;
- c. A letter of intent committing the telecommunication facility owner and his/her successors to allow the shared use of the telecommunication facility if an additional user agrees in writing to meet reasonable terms and conditions for shared use;
- d. Written documentation that the proposed telecommunication facility shall comply with all requirements of the Federal Communication Commission, and the Federal Aviation Administration; and,
- e. Any additional information needed to determine compliance with the provisions of these regulations.

(C) Telecommunications equipment mounted on existing structures may be permitted in all zoning districts subject to conditional use review under Section 5.2 and the following provisions:

- (1) No changes are made to the height or appearance of such structure except as required for mounting;
- (2) The height of the antenna as mounted is not more than 10 feet higher than the structure and does not exceed height requirements under Section 4.5;
- (3) No panel antenna shall exceed 72 inches in height or 24 inches in width;
- (4) No dish antenna shall exceed 3 feet in diameter;
- (5) Any accompanying equipment shall be screened from view;
- (6) Antenna placement and installation shall adhere to (A) 6 criteria; and,
- (7) The telecommunication facility shall be located to minimize visibility and designed to blend into the surrounding environment to the greatest extent feasible through the use of vegetation, landscaping and screening, the use of compatible materials and colors or other camouflaging techniques.

(D) Telecommunications facilities to be installed within existing structures may be permitted by the Zoning Administrator in all zoning districts, without conditional use approval provided that:

- (1) Facilities are enclosed inside existing structures (e.g. silos, steeples, cupolas) and are substantially not visible.

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

- (1) A single ground or building mounted radio or television antenna or satellite dish not exceeding 72 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 35 feet in height above the lowest grade at ground level;
- (2) All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

### **Section 3.15 Temporary Uses & Structures**

(A) Temporary permits may be issued by the Zoning Administrator for certain non-conforming uses, described below, for a period not to exceed two (2) years, conditional upon written agreement by the owner to remove the structure and/or discontinue the use upon expiration of the permit. Such permits may be renewed by the Zoning Administrator upon application for an additional period not exceeding one year. Any further renewal of temporary permits is contingent upon the review and approval by the Development Review Board in accordance with Section 5.2.

(B) Permits for temporary structures and/or uses may be issued for non-conforming uses, excluding residential uses, or non-complying structures which are:

- (1) Incidental to a construction project; or,
- (2) Associated with the road-side sale of agricultural products produced on the premises; or,
- (3) Is accessory to transportation services, such as a school bus shelter.

(C) Temporary uses and/or structures may be exempt from the area, yard, and general regulations if their placement is not found to be hazardous to pedestrian and traffic movement. Where applicable, adequate off street parking is required.

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

### **Section 3.16 Wind Turbines**

#### **A) No Conditional Permit Required**

- (1) **Applicants with a Certificate of Public Good (CPG):** Applicants who have received a Certificate of Public Good (CPG) from the Vermont Public Service Board (allowing them to net-meter their wind turbine) DO NOT need a Moretown zoning permit, however, they must certify that they have received a CPG. The applicant must submit a “Moretown Wind Turbine CPG Certification Form” to the zoning administrator with all necessary documentation. The zoning administrator will confirm the validity of the CPG, and send confirmation to the applicant.
- (2) **Small turbines on existing structures:** Wind turbines can be installed on existing structures. The mounting structure (pole) shall not extend more than 15 feet above the highest point on the structure. The turbine blades must be less than or equal to 10 feet in diameter. The applicant must submit a “Moretown Existing-Structure Wind Turbine

Permit Form” to the zoning administrator with all necessary documentation. The zoning administrator will approve or deny the permit in accordance with these regulations.

**B) Conditional Permit Required - Applicants without a Certificate of Public Good**

**(CPG):** Wind turbines may be permitted in designated zoning districts subject to conditional use review under Section 5.2 and the following provisions:

- (1) All turbines shall not be more than 40 feet higher than the surrounding forest canopy as measured from the lowest grade at ground level to the top of the highest structure or component (usually top of the blade). Forest canopy shall be defined as the average height of the five (5) tallest trees within 50 feet of the tower. The maximum height of any wind turbine is 150 feet.
- (2) Wind turbines shall be set back from all property lines, buildings, and public rights of way for a distance equaling their total height, including blades, unless otherwise permitted by the Development Review Board.
- (3) No wind turbine shall be located or operated in such a manner that it poses a potential threat to public health or safety.
- (4) Wind turbines shall be designed to avoid having an undue adverse aesthetic impact on prominent ridgelines and hilltops. In determining whether a wind turbines’ aesthetic impact would be undue and adverse, the Development Review Board will consider:
  - a. The period of time during which the proposed turbine would be viewed by the traveling public on a public highway;
  - b. The frequency of the view experienced by the traveling public;
  - c. Background features in the line of sight to the proposed wind turbine that obscure the facility or make it more conspicuous;
  - d. The sensitivity or unique value of a particular view affected by the proposed wind turbine;
  - e. Significant disruption of a view shed that provides context to a historic or scenic resource.
- (5) Wind turbines shall not be illuminated by artificial means and shall not display strobe lights unless the Federal Aviation Administration or other federal or state authority specifically requires such lighting.
- (6) The use of any portion of a wind turbine for signs other than warning or equipment information signs is prohibited.
- (7) Access roads, and all utility buildings and structures accessory to a wind turbine shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located.
- (8) All abandoned or unused wind turbines and associated facilities shall be removed within 5 years of the cessation of operations at the site, and the site shall be restored to its original appearance.

## **ARTICLE IV GENERAL REGULATIONS**

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### **Section 4.0 Applicability**

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

### **Section 4.1 Access and Frontage Requirements**

(A) In accordance with the Act [§4412(3)], no land development may be permitted on lots including those in existence prior to the effective date of these regulations which do not have either frontage on a Town Class I, II, III, or State highway or public waters, or with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. The Board will consider intended use, safety, traffic, lot configuration and road and site conditions in granting or denying approval, and impose conditions as appropriate.

(B) No lot shall be served by more than one (1) access road or driveway unless otherwise permitted under conditional use review in accordance with Section 5.2. Accesses (curb cuts) are to be installed in accordance with municipal and/or state regulations, and shall be of a designated width and not extend along the length of road frontage.

(C) Driveways are to be located one hundred (100) feet from a street or highway intersection for all uses, except one-and two-family residential uses, which shall be at least fifty (50) feet from the same unless otherwise approved by the Development Review Board in accordance with Section 5.2.

(D) Driveways are to be located at least five (5) feet from side property lines. The Development Review Board may, pursuant to Section 5.2, approve a driveway within five (5) feet of a property line in instances involving shared access or where traffic safety would be enhanced and both adjacent property owners approve of such location.

(E) Bridges that provide vehicular access must be approved by the Development Review Board in accordance with Section 5.2. In granting approval, the Board shall find the proposed bridge is accessible for emergency response vehicles. To this end, the applicant shall provide certification of the bridge design by a Vermont licensed professional engineer.

### **Section 4.2 Conversions and Changes of Use**

A conversion or change of use from a permitted to a conditional use, or from a conditional use to another conditional use, requires conditional use approval. Changes or conversions involving nonconforming uses and/or noncomplying structures also are subject to the provisions of Section 4.8.

### **Section 4.3 Equal Treatment of Housing**

Pursuant to the Act [§4412(1)], a mobile home shall be considered a single family dwelling, and shall meet the same zoning requirements applicable to single family dwellings, except when allowed as a temporary structure under Section 3.15 of these regulations. No provision of this bylaw may have the effect of excluding from the municipality housing to meet the needs of the population as determined in accordance with 24 V.S.A. § 4382(c). No provision of these regulations 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.

### **Section 4.4 Existing Small Lots**

(A) In accordance with the Act [§4412(2)], any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purpose permitted in the district in which it is located, if such lot is at least one-eighth (1/8) of an acre in area with a minimum width or depth of forty (40) feet, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw. Development of the existing lot shall be subject to all other applicable requirements.

(B) Existing small lots in affiliated or common ownership or such lots, which subsequently come under common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lots for the purpose of these regulations. However, such lots shall not be deemed merged, and may be separately conveyed, if in accordance with the Act *all* of the following requirements are met:

- (1) The lots are conveyed in their pre-existing, nonconforming configuration; and
- (2) On the effective date of any bylaw, each lot had been developed with a water supply and wastewater disposal system; and
- (3) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and,
- (4) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case a wastewater system fails, pursuant to the Act [§4412(2)(B)(iv)].

### **Section 4.5 Height Requirements**

(A) The maximum height of structures in all districts shall be three (3) stories or thirty-five feet (forty-five feet in the Village District), whichever is less, as measured from the median grade, except as permitted under Subsection (B), or for the following which are specifically exempted from the height requirements:

- (1) Agricultural structures in accordance with the Act [§4413];
- (2) Church steeples, spires and belfries;

- (3) Accessory structures associated with residential use which are less than 50 feet in height above the lowest grade at ground level, including antennas, flag poles, ornamental cupolas, chimneys, wind generators with blades less than 20 feet in diameter, and rooftop solar collectors.
- (B) The Development Review Board may permit structures in excess of thirty-five (35) feet subject to conditional use review under Section 5.2, provided that:
- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
  - (2) the structure is not to be used for advertising purposes;
  - (3) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation; and,
  - (4) the proposed building height and scale is consistent with the character of the immediate surroundings.

#### **Section 4.6 Landfill**

Except for solid waste landfills certified under 10 V.S.A. Chapter 159, the dumping of refuse and waste material is prohibited. Topsoil, rock, stone, gravel, sand and other earth materials may be used for site grading and related site preparation activities associated with permitted land development.

#### **Section 4.7 Lot and Yard Requirements**

- (A) There shall be only one principal structure or use per lot, unless otherwise specifically approved as part of a PUD under Section 5.2, or as a mixed use under Article III. In each district, a lot size minimum is specified.
- (B) An accessory use or structure must conform to all lot setback, coverage and other dimensional requirements for the district in which it is located.
- (C) Front, side and rear yard setbacks shall be measured as the horizontal distance from the nearest point of a building or structure to the related front, side or rear property line. Where a lot fronts an existing public right-of way, the front yard setback shall be measured from the street centerline to the point on building closest to the street. Setbacks shall apply only to buildings and other above ground structures and do not, unless expressly set forth in these regulations, apply to wells, sewage disposal systems, driveways and parking areas.
- (D) Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front and side yards.
- (E) For any lot lacking road frontage, all setbacks from adjacent parcel boundaries shall be considered side setbacks.

### **Section 4.8 Nonconformities**

(A) Any lawful structure of any lawful use of any structure or land existing at the time of the enactment of these regulations may be continued, although such structure or use does not conform with the provisions of these regulations, provided the conditions in this section are met.

- (1) The nonconforming use may be continued provided that such structure shall not be enlarged or extended unless the use therein is changed to a conforming use.
- (2) A nonconforming structure that is devoted to a conforming use may be reconstructed, structurally altered, restored or repaired, in whole or in part, with the provision that the degree of the nonconformance shall not be increased.
- (3) A nonconforming structure, or part thereof, shall be maintained, repaired, or restored to a safe condition as required by the zoning administrator.
- (4) A nonconforming structure shall not have its degree of non-compliance increased.
- (5) A nonconforming use shall not be extended or enlarged, nor shall it be extended to displace a conforming use, nor shall it be changed to another nonconforming use, nor shall it, if changed to a conforming use, thereafter be changed back to a nonconforming use.

(B) A conforming structure used by a nonconforming use shall not be reconstructed, structurally altered, restored or repaired to an extent exceeding 100 percent of the gross floor area of such structure unless the use of such structure is changed to a conforming use.

(C) Any nonconforming building or structure may be altered, including additions to the building or structure, provided such alteration does not exceed in aggregate cost 35 percent for residential properties and 25 percent for industrial and commercial property of the current assessed value as determined by the town assessor. If an addition or an expansion to a building or structure is proposed, the addition or expansion itself must comply with the provisions of these regulations (e.g. setback requirements).

(D) Any nonconforming structure damaged by any means to an extent greater than 50 percent of its current assessed value shall be permitted to be reconstructed only if the future use of the structure and the land on which it is located is in conformity with these regulations. Any nonconforming structure damaged by any means to an extent less than 50 percent of its current assessed value, may be rebuilt provided that:

- (1) The resumption of any nonconforming use (if any) takes place within one year of the time of its interruption.
- (2) The cost of such reconstruction or structural alteration is less than 50 percent of said fair market value.
- (3) The reconstruction or structural alteration is commenced within six months of the date of interruption and completed within 2 years of the date of interruption.
- (4) Where such reconstruction or structural alteration can reasonably be accomplished so as to result in greater compliance with these regulations, then the reconstruction or structural alteration shall be so done.

- (5) No later than six months after a permanent or temporary structure has been damaged, made uninhabitable, or has been abandoned, all scrap, debris, damaged or unsafe materials shall be removed from the site and any remaining excavation, foundation or cellar hole shall be covered over or filled to the existing grade by the property owner. Upon application by the property owner, the Development Review Board may enlarge the time to undertake such remedial work as a conditional use.

(E) No nonconforming use may be resumed if such use has been abandoned for a period of 1 year or more. A nonconforming use shall be considered abandoned when any of the following conditions exist:

- (1) When it is replaced by any other use,
- (2) When the intent of the owner to discontinue the use is apparent. Any one of the following may constitute prima facie evidence of a property owner's intent to abandon a use voluntarily:
  - i. failure to take necessary steps within one year to resume the nonconforming use with reasonable dispatch in any circumstances, including without limitation failing to advertise the property for sale, rent, lease, or use.
  - ii. Discontinuance of the use for one consecutive year, or for a total of 18 months during any three-year period, or
  - iii. In the case where the nonconforming use is of land only, discontinuance of the use for more than one (1) year.
- (3) When the characteristic equipment and furnishings have been removed from the premises and have not been replaced by similar equipment and furnishings within one (1) year, except in the event that the structure is damaged.

#### **Section 4.9 Parking and Loading Requirements**

(A) **Parking.** For every structure or use requiring conditional use approval of the Development review Board in accordance with Section 5.2, off-street parking spaces shall be provided as set forth below:

- (1) All required parking spaces shall have a minimum width of nine (9) feet, a minimum length of twenty (20) feet, and unobstructed access.
- (2) Parking areas intended for commercial and/or public use which are adjacent to residential uses shall be set back at least ten (10) feet from the nearest property line unless otherwise permitted by the Development Review Board.
- (3) All non-residential parking areas shall be located to the side or rear of buildings unless otherwise approved by the Development Review Board, and screened or otherwise visually hidden as viewed from public highways and from adjoining residential areas.
- (4) A minimum number of parking spaces as provided in accordance with the requirements listed in Table 4.1.

MORETOWN ZONING REGULATIONS

(5) In addition to the requirements listed in Table 4.1, all commercial developments must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal requirements.

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

(C) **Waivers.** On-site parking, loading and/or service area requirements may be reduced or waived by the Development Review Board based on the Board’s determination that due to circumstances unique to the development, the strict application of these standards is unnecessary.

<b>Table 4. 1</b>	
<b>Minimum Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Parking Spaces</b>
Accessory Apartment	1 per dwelling unit
Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Home Occupation/Home-Based Business	2 per dwelling unit, and 1 per additional employee
Mixed Use	total required per each individual use
Multi-Family Dwelling	1.5 per dwelling unit
Professional Office	1 space plus one for every 300 sq. ft. of office space
Religious Institution	1 per 4 seats or 200 sq. ft. of gross floor area, whichever is greater
Retail Store	1 per 250 sq. ft. of retail floor area
School or Day Care (6 or more children)	3 spaces per 10 children enrolled at the facility
Unspecified	As determined by the Development Review Board

**Section 4.10 Performance Standards**

(A) No land or structure in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious or noxious conditions that adversely affect the reasonable use of adjoining or nearby properties.

(B) The following specific standards apply to all uses, with the exception of agriculture and forestry, in all districts. The burden of proof that the following standards are met shall fall on the applicant and/or all successors and assigns.

- (1) No noise shall be permitted which is excessive at the property line or is incompatible with the reasonable use of the surrounding area. Excessive noise shall be considered a sound pressure level that exceeds 65 decibels at the property line on a regular or reoccurring basis.
- (2) No glare, lights, or reflection shall be permitted which could impair the vision of a driver of any motor vehicle or which are detrimental to public health, safety, and welfare. Outdoor lighting shall be cut-off fixtures; wall mounted fixtures shall be shielded and down-cast. Such fixtures shall be directed so as not to cause glare on adjacent roadways, cause excessive levels of illumination, or result in direct illumination of neighboring properties.
- (3) No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities.
- (4) No smoke, dust, dirt or noxious gases which endanger or adversely affect the health, comfort, safety, or welfare of the public or neighboring property owners, or which causes damage to property, business, or vegetation shall be permitted.
- (5) There shall be no discharge of sewage, septage, or other harmful wastes into any public water, wetland, aquifer.

(C) Agricultural operations shall at minimum observe Accepted Agricultural Practices (AAPs) as defined and administered by the Vermont Department of Agriculture.

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

#### **Section 4.11 Protection of Streams, Streambanks and Wetlands**

(A) No alteration of the natural course of any stream shall be allowed unless a stream alteration permit has been issued by the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 41.

(B) To prevent soil erosion, protect wildlife habitat and maintain water quality, land development shall be setback a minimum of twenty-five (25) feet from all streams and rivers to create a buffer strip. The 25' buffer strip shall be measured from the top of the bank or, where a clear bank is not discernable, from the mean water mark. No development, excavation, landfill or grading shall occur within the buffer strip, and vegetation shall be left in an undisturbed state, with the exception of clearing and associated site development necessary to accommodate the following:

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

(C) The expansion or enlargement of any structure in existence prior to the effective date of this ordinance and not in compliance with subsection 4.11 (B), above, is permitted with the approval of the Development Review Board in accordance with Section 4.8.

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

(E) A naturally vegetated buffer strip shall be maintained, of at least fifty (50) feet in uniform width, for Class Two wetlands, and one hundred (100) feet in uniform width, for Class One wetlands. No development, dredging, ditching or manipulation of vegetation will be permitted within the buffer strip nor within the wetland, unless in conformance with the Vermont Wetlands Rules. (For conformance requirements, contact the Agency of Natural Resources, Department of Environmental Conservation).

### **Section 4.12 Signs**

(A) The purpose of this Section is to promote and protect the public health, safety and welfare by regulating existing and proposed signs in the Town of Moretown. It is further intended hereby to control and reduce the proliferation of signs in order to protect the economic and scenic value of the Town, and in order to prevent hazards to users of the roads in the Town.

(B) Any signs beside or within the State right-of-way must comply with State regulations.

(C) No sign shall be permitted except as hereinafter provided.

- (1) No signs shall be erected or substantially altered without a zoning permit being issued except for those signs exempt under subsection 8, below.
- (2) All signs must be well constructed and maintained in good repair and stable condition.
- (3) Advertising billboard signs shall not be permitted in any zoning district.
- (4) In the Village, Agricultural/Residential, and Preserve Districts, the following signs are permitted:
  - a. One home-based business sign in the Village not exceeding four (4) square feet;
  - b. Residence signs not exceeding two (2) square feet;
  - c. One sign identifying an industrial structure or use, not exceeding a total of sixteen (16) square feet;
  - d. One sign identifying any non-residential structure or use permitted in the Agricultural/Residential or Preserve Districts, not exceeding a total of sixteen (16) square feet;
- (5) In the Commercial District, the following signs are permitted:
  - a. All signs which are allowed in the Village, Agricultural/Residential, and Preserve Districts;
  - b. One individual business identification sign attached to or free standing from the premises not to exceed sixteen (16) square feet.

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- (6) All signs shall comply with the following restrictions:
- a. No permanent or commercial sign shall be permitted within or over a public right-of-way.
  - b. No sign shall be permitted which appears to direct the movement of traffic or which interferes with, imitates or resembles any official traffic, directional or route sign, signal or device.
  - c. No sign shall be permitted which prevents a clear and unobstructed view of official signs or approaching or merging traffic.
  - d. No lighting of signs shall be permitted unless such lighting is mounted to the top or side of the sign structure, directed so that the lighting illuminates only the surface area of the sign and is effectively shielded to prevent hazardous beams or rays of light from being directed at any portion of the main traveled way of a public road. The internal illumination of signs may only be permitted with the approval of the Development Review Board in accordance with Section 5.2.
  - e. No sign shall contain any moving parts.
  - f. No sign shall be erected, attached or maintained upon trees, or drawn or painted on rocks or other natural features, or upon utility poles.
  - g. No sign shall be allowed which is not on the premises of the activity served by the sign.
  - h. No free standing sign may be more than sixteen (16) feet high nor less than thirty (30) feet from any street center line nor nearer than ten (10) feet to any other lot line.
  - i. No sign ,which is attached to a structure, may extend above the eaves of that part and side of the structure to which the sign is attached.
  - j. No sign shall contain any fluorescent paint.
- (7) The following additional signs may be permitted upon the granting of a conditional use approval by the Development Review Board as hereinafter provided:
- a. One free-standing or attached sign if it identifies two or more businesses located on the same premises upon a finding by the Development Review Board that the sign does not exceed twenty-four (24) square feet in area, meets the requirements set forth in subsection 5, above.
  - b. Up to two free-standing or attached signs if they identify ten or more businesses located on the same premises upon a finding by the Development Review Board that each sign does not exceed thirty-six (36) square feet in area, meets the requirements set forth in subsection 5, above.
- (8) The following shall be exempt from the sign requirements:
- a. Signs erected or administered by the Town or the State of Vermont under Title 10, VSA 21, whether maintained at private or public expense.
  - b. Small signs without advertising displayed for the direction, instruction or convenience of the public, including signs which identify rest rooms, freight entrances, "open/closed", posted areas or the like, with an area not exceeding two

- (2) square feet, provided such signs are on the premises of the activity served by the sign.
- c. Signs to be maintained for not more than forty-five (45) days in any calendar year erected by fairs or expositions or signs announcing an auction, or a campaign drive, or event of a civic, political, philanthropic service, or religious organization.
  - d. Signs not exceeding sixteen (16) square feet, which are not visible in any substantial degree from premises other than that on which the sign is located.
  - e. Temporary real estate signs not exceeding six (6) square feet, offering for sale the premises on which such sign is situated.
  - f. Signs required by the street naming and addressing ordinance of the Town of Moretown to identify the physical address of a property.

#### **Section 4.13 Storage of Flammable Commodities**

The storage of any highly flammable liquid or gas in tanks above ground, excluding tanks for residential purposes, with unit capacity greater than two thousand (2,000) gallons shall be prohibited, unless such tanks up to and including ten thousand (10,000) gallon capacity are placed not less than eighty (80) feet from all property lines, and unless all such tanks of more than ten thousand (10,000) gallon capacity are placed not less than two hundred (200) feet from all property lines.

All tanks (containing flammable liquids) having a capacity greater than two thousand (2,000) gallons shall be properly retained with dikes having a capacity not less than one and one-half (1.5) times the capacity of the tanks surrounded.

#### **Section 4.14 Storage of Motor Vehicles**

In all districts, any motor vehicle, which is not State inspected, must be stored in an enclosed building or placed in a rear or side yard and screened from view from any public road. Unregistered motor vehicles used for on-site property maintenance, such as snow plowing or agricultural purposes, and up to two (2) motor vehicles are exempted from this provision.

## **ARTICLE V DEVELOPMENT REVIEW**

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### **Section 5.0 Applicability**

(A) **Conditional Use Review** approval by the Development Review Board is required for the establishment of any land use designated as a conditional use in Article II, or as otherwise specified under Article IV, or any land development associated with such a use. Applications for conditional use review shall be reviewed in accordance with Section 5.2.

(B) **Flood Hazard Area Review** approval by the Development Review Board is required for construction of new buildings or the substantial improvement of existing buildings within the Flood Hazard Area Overlay District. Applications for flood hazard review shall be reviewed in accordance with Section 5.2.

(C) **Planned Unit Development (PUD)** standards may be applied by the Development Review Board at the request of the applicant for any parcel which meets the minimum lot size for the district within which it is located, in accordance with Section 5.3.

### **Section 5.1 Application Requirements**

(A) An applicant for Conditional Use or PUD review shall submit, in addition to zoning permit application requirements under Section 6.1, five (5) complete copies of a site development plan to include the following:

- (1) The names and addresses of the property owner(s) of record, the applicant if different from the property owners, and the person(s) or firm preparing the application and plan.
- (2) Proof that all adjoining property owners, as determined from the current Moretown Grand List, have been notified that the application is being submitted and a brief description of the nature of the application. This requirement may be satisfied by the submission of a list of property owners and addresses together with proof of mailing from the U.S. Postal Service or a certificate of service or comparable affidavit signed by the applicant.
- (3) A site development plan, drawn to scale, which shows the following:
  - a. north arrow, scale and application date;
  - b. existing and proposed property boundaries, easements and rights-of-way;
  - c. zoning district boundaries;
  - d. existing features, including prominent topographic features and areas of steep slope (15% or greater); surface waters, wetlands and associated buffers; designated floodplain and source protection areas; land cover; and critical habitat areas and historic sites;

- e. existing and proposed structures, including building footprints, building elevations depicting general design features, walls and fence lines, utilities, roads, driveways, parking and loading areas;
  - f. existing and proposed traffic and pedestrian circulation patterns, including accesses onto or connections with adjoining properties, public roads and public waters, and associated sidewalks, pathways or trails serving the proposed development;
  - g. water supply and wastewater disposal system locations;
  - h. proposed grading, drainage, landscaping, screening, signage, and/or lighting details; and,
- (4) Any additional information required by the Development Review Board to determine project conformance with the provisions of this bylaw (e.g., site plan prepared by licensed engineer or surveyor; erosion control, storm water management or site reclamation plans; traffic, fiscal or visual impact analyses).
- (5) For development in the flood hazard area overlay district, the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings; the elevation, in relation to mean sea level, to which buildings will be flood proofed; proposed flood proofing measures; and any comments received from the Vermont Department of Environmental Conservation following their review of the application.

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

## **Section 5.2 Conditional Use Review**

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

(B) In accordance with the Act [§4464], the Development Review Board shall schedule a public hearing, warned in accordance with Section 6.5, not less than 15 days prior to the date of the public hearing. The Board may recess the convened hearing to require the submission of additional information from the applicant, or to allow for the submission of information from other parties. The Board shall act to approve, approve with conditions, or disapprove an application for conditional use review, within forty-five (45) days of the date of the final public hearing; and shall issue a written decision to include findings, any conditions deemed necessary to ensure compliance with the standards set forth below, and provisions for appeal. Failure to act within the forty-five (45) day period shall be deemed approval.

(C) Conditional use approval shall be granted by the Development Review Board upon finding that the proposed conditional use shall not result in an undue adverse effect on any of the following:

- (1) **The capacity of existing or planned community services or facilities.** The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of such services and facilities including, but not limited to, schools, emergency services and road maintenance.
- (2) **The character of the area affected.** The Board shall consider the location, scale, type, density and intensity of use associated with the proposed development in relation to the character of the area likely to be affected, as defined by the Board based on the Moretown Town Plan, applicable zoning district purposes and standards, submitted materials, and testimony presented at public hearing.
- (3) **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of projected traffic resulting from the proposed development in relation to the condition, capacity, safety, and function of roads and associated infrastructure (e.g., bridges, culverts) potentially affected by the proposed development.
- (4) **Bylaws in effect.** The Board shall consider whether the proposed development complies with all bylaws in effect at the time of application, including other applicable provisions of this zoning bylaw, and other prior municipal permits and/or approvals.
- (5) **The utilization of renewable energy resources.** The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including access to, direct use or future availability of such resources.

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

- (1) **Location of Structures.** The design and location of structures will be compatible with their proposed setting and context, as determined in relation to zoning district objectives and requirements, existing site conditions and features, and adjoining structures and uses. Conditions may be imposed with regard to siting, density, setbacks, height, scale and/or orientation, to ensure compatibility.
- (2) **Traffic and Pedestrian Circulation.** A coordinated, safe and efficient system for vehicular and pedestrian circulation will be provided on and off-site in accordance with all applicable municipal and state standards. Conditions may be imposed with regard to intersections, pedestrian paths and crossings, and the number and size of curb cuts, including the reduction, consolidation or elimination of non-complying curb cuts, and/or provisions for shared access with adjoining parcels.
- (3) **Parking and Service Areas.** Parking and service areas will be provided in accordance with the requirements of Section 4.9, and be designed to minimize off-site visibility and stormwater runoff. Nonresidential parking and service areas shall be located to the side or rear of buildings, unless otherwise approved by the Board in relation to existing site limitations. Conditions may be imposed with regard to the extent, siting, landscaping, screening, paving, curbing and/or sharing of parking and service areas with adjoining parcels.

- (4) **Outdoor Storage & Display.** The storage or display of outside materials, goods, supplies, vehicles, machinery or other materials shall be prohibited unless specifically approved by the Board. Secured, covered areas shall be provided for the collection and on-site storage of trash and recyclables generated by the proposed development. In approving such outdoor display or storage, the Board may place conditions on the area and location of such storage or display, and may require appropriate screening.
- (5) **Stormwater Management.** Stormwater runoff will be managed to ensure that such runoff will not result in adverse impacts to neighboring properties, town roads, or water quality. A stormwater management and/or erosion control plan may be required and incorporated as a condition to approval.
- (6) **Lighting.** Lighting associated with the proposed development will be the minimum required for safety and security, and will not adversely affect neighboring properties and uses or the quality of the night sky; exterior lighting shall generally be limited to cut-off fixtures. Such fixtures shall be directed so as not to cause glare on adjacent roadways, cause excessive levels of illumination, or result in direct illumination of neighboring properties. The Board may restrict the maximum level of illumination on all or a portion of the property. A lighting plan may be required and incorporated as a conditions to approval.
- (7) **Landscaping & Screening.** Proposed landscaping and screening (which may include but not be limited to shade and street trees, shrubs, planting beds, buffers, and ground covers) will preserve and incorporate existing vegetation; be suited to existing site conditions; enhance features unique to the site; and not obstruct scenic views or road visibility. Conditions may be imposed as appropriate with regard to the amount, type, size, and location of landscaping and screening materials. A three (3) year landscaping plan, and/or bond or other surety to ensure installation and maintenance may be required and incorporated as a condition to approval.
- (6) **District and Use Standards.** All development shall comply with all applicable specific use standards set forth in Article III, and all district standards set forth in Article II.

**(E) Flood Hazard Area Development Standards.**

**Base Flood Elevations and Floodway Limits**

A. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations.

C. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

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

- (1) Development within floodways is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are specifically prohibited within the floodway.
- (2) All development shall be designed to (a) minimize flood damage to the proposed development and to public facilities and utilities; and (b) to provide adequate drainage to reduce exposure to flood hazards.
- (3) Structures shall be (a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (b) be constructed with materials resistant to flood damage, (c) be constructed by methods and practices that minimize flood damage, and (d) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- (5) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (7) New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
- (8) The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation,
- (9) Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of Subsection (8).

- (10) Existing buildings to be substantially improved for nonresidential purposes shall either (a) meet the requirements of subsection 8, or (b) be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- (11) All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other cover coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (12) Recreational Vehicles placed on sites within Zones A1-A30, AH and AE shall either (1) be on the site for fewer than 60 days during a year or 3 consecutive weeks, (2) be fully licensed and ready for highway use, or (3) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” of Section 60.3(c)(6).

### **Section 5.3 Planned Unit Development**

(A) **Purpose.** In accordance with the Act [§4417], Planned Unit Developments (PUD’s) are permitted in all zoning districts to allow for innovative and flexible design and development that will promote the most appropriate use of land, and specifically achieve one or more of the following objectives:

- (1) Increase density, reduce lot size and/or facilitate the adequate and economical provision of streets and utilities to provide housing in a cost effective manner;
- (2) Cluster residential development to preserve and maintain open space, including but not limited to important resource or conservation lands;
- (3) Protect significant natural, cultural or scenic features as identified in the Moretown Town Plan, or through site investigation; and/or,
- (4) Allow for creative design and layout of development, an efficient use of land, and to provide for the integrated mix of uses.

(B) **Review Process.** A PUD shall be reviewed in accordance with the procedures for conditional use review set forth in Section 5.2. In addition to a Site Development Plan prepared in accordance

with Section 5.1, an application for PUD approval shall include a statement describing all proposed modifications, changes or supplements to existing bylaw requirements. Modifications of this bylaw approved by the Development Review Board shall be noted in writing and appended to a plat depicting the project to be filed in the Moretown Land Records. All other provisions of this bylaw not specifically modified shall remain in effect and be applicable to the project.

(C) **Coordination with Conditional Use Review** Approval granted for a PUD involving the development of one or more uses subject to conditional use review shall not exempt the proposed development from subsequent Development Review Board review in accordance with Section 5.2 unless the Development Review Board specifically grants conditional use review at the time of PUD approval.

(D) **General Standards.** The modification of zoning regulations by the Development Review Board may be permitted in accordance with the following standards:

- (1) The PUD shall meet all applicable standards set forth in Section 5.2, and shall be consistent with the Moretown Town Plan and all other applicable municipal regulations and ordinances currently in effect. The PUD shall also meet all local and state regulations for sewage disposal and the protection of water quality.
- (2) The PUD shall represent an effective and unified treatment of the development site, including provisions as appropriate for the preservation or protection of surface and ground waters; wetland, stream bank, floodplain and lake shore areas; significant topographic features, including hilltops and ridgelines; areas of steep slope or shallow soil; significant resource lands, including agricultural and forest land; historic or archaeological sites and structures; natural and critical habitat areas; and open spaces, including scenic views and vistas.
- (3) The Development Review Board may allow for a greater concentration or intensity of development within some section(s) of the development than in others, on individual lots which are smaller than the minimum lot size for the district within which the PUD is located, provided that there is an offset by a lesser concentration in other sections, including the reservation of no less than 50% of the remaining land as open space.
- (4) The minimum front, side and rear yard setbacks at the periphery of the PUD shall be as dictated for the particular district unless otherwise specified by the Development Review Board. The Board may allow other setback standards, such as zero lot lines, as part of PUD approval.
- (5) Provision shall be made for the preservation of open space. Preserved open space shall be dedicated, either in fee or through a conservation easement to the Town, a community association comprising all of the present and future owners of lots or dwellings in the project, or a non-profit land conservation organization. Such easement shall be approved by the Development Review Board. Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. The location, size and shape of lands set aside to be preserved for open space shall be approved by the Board, in accordance with the following:

- a. Open space land shall provide for the protection of identified resources, including farmland, productive forest, wildlife habitat, natural areas, aquifer protection areas, surface waters, stream banks, historic and archaeological sites, and scenic views and vistas;
  - b. Designated open space may include the portion of a single lot which is characterized by one or more of the above referenced features, or may encompass the contiguous boundaries of the above referenced feature located on multiple lots;
  - c. The location, shape, size and character of the open space shall be suitable for its intended use. Generally, open space shall be at least 50% of the total area for projects involving a parcel(s) of twenty-five (25) acres or more. For smaller parcels, open space should be in proportion to the size and scope of the project, and its intended use;
  - d. Open space shall be suitably improved and/or maintained for its intended use, except for open space containing natural or cultural resources worthy of preservation, which may be required to be left unimproved. Provisions shall be made to enable lands designated for agriculture and forestry to be used for these purposes. Management plans for forests and/or wildlife habitat may be required by the Board as appropriate. Areas preserved for agricultural use should be of a size that retains their eligibility for state and town tax abatement programs;
  - e. Open space land shall be located so as to conform with and extend existing and potential open space lands on adjacent parcels; and
  - f. Sewage disposal areas and utility and road rights-of-way or easements, access and parking areas shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the Board, that they will in no way disrupt or detract from the values for which the open space is to be protected.
- (6) Where a district boundary line divides a parcel, the Development Review Board may allow the development of a single PUD with a total density based on the combined allowable density of each district.
- (7) Two (2) or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PUD. The permitted density on one parcel may be increased as long as the overall density for the combined parcels does not exceed that which could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with district regulations.

(F) **Specific Standards.** In addition to the general standards under subsection (D), PUD's shall also meet the following specific standards:

- (1) The total number of residential units and/or commercial or industrial space within the PUD shall not exceed the number, which would be permitted in the Development Review Board's judgment if the parcel were subdivided into buildable lots in conformance with the zoning regulation for the district in which the project is located. The number of units allowed in a PUD may, at the discretion of the Development Review Board, be increased by up to 25%

of the number, which the Board determines could be provided on the site in conformance with zoning district requirements. Density bonuses shall also be granted for PUD's in which 50% or more of the total land area is to be set aside as open space, or for the provision of affordable or elderly housing.

- (2) A PUD may include any permitted or conditional uses allowed in the district in which it is located. Multiple principle structures and/or uses on a lot, or multiple ownership of a single structure may be permitted.
- (3) Principal buildings and mixed uses shall be arranged to be compatible, and buffered as appropriate to ensure visual and acoustical privacy for the residents of the development and for adjacent properties.

## ARTICLE VI ADMINISTRATION AND ENFORCEMENT

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### Section 6.1 Appointments and Duties

#### (A) Zoning Administrator

- (1) **Appointment.** In accordance with the Act [§ 4448], the Planning Commission, with the approval of the Select Board, shall appoint a Zoning Administrator for a term of three years. The Select Board in consultation with the Planning Commission may remove a Zoning Administrator for cause at any time. The planning commission may nominate and the legislative body may appoint an acting zoning administrator who shall have the same duties and responsibilities as the zoning administrator in the zoning administrator's absence. If an acting zoning administrator or assistant zoning administrator position is established, there shall be clear policies regarding the authority of the zoning administrator in relation to the acting or assistant administrator.
- (2) **Duties.** The Zoning Administrator shall administer these regulations literally, and shall only permit land development that is in conformance with these regulations and any other Town ordinance. The Zoning Administrator may make reasonable inspections to determine compliance, and shall maintain accurate records of all applications and fees received, permits issued and denied, and notice of violations. These records shall be available to the public. The Zoning Administrator shall perform all other necessary functions to carry out the provisions contained herein.

#### (B) Development Review Board

- (1) **Appointment.** A Development Review Board shall be appointed by the Select Board in accordance with the Act [§ 4460(c)]. The Select Board shall determine the Board's members as well as their number and term of office. Any member of the Development Review Board may be removed for cause by a majority vote of the Select Board upon notification of written charges and after a public hearing.
- (2) **Duties.** To the extent authorized by the Act, the Development Review Board shall consider and act upon:
  - a. Appeals of the Zoning Administrator's acts or decisions;
  - b. Requests for variances; and
  - c. Applications for conditional use (Section 5.2) and PUDs (Section 5.3).
- (3) **Procedures.** The Development Review Board may prepare and adopt rules of procedure to guide the Board's official conduct. Said rules shall be prepared in accordance with all applicable provisions of the Act [§ 4461] and Vermont's Open Meeting Law [1 V.S.A. § 310-314].

**(C) Planning Commission.**

- (1) **Appointment.** A Planning Commission shall be appointed by the Select Board in accordance with the Act [§ 4321]. The Select Board shall determine the Board's members as well as their number and term of office. The Select Board may remove any member of the Planning Commission with a unanimous vote of the Board.
  
- (2) **Duties.** As authorized by the Act [§4325] the Planning Commission shall have the following duties:
  - a. Prepare and update the Town Plan every five years and prepare amendments to the Plan as necessary;
  - b. Prepare bylaws and amendments to such bylaws;
  - c. Undertake studies and make recommendations on matters related to land development, transportation, economic and social development, historic and scenic preservation, natural resource protection and related areas;
  - d. Assist Selectboard to prepare a five-year capital budget and program;
  - e. Undertake comprehensive planning, including related preliminary planning and engineering studies; and
  - f. Perform other acts or functions as it may deem necessary or appropriate to fulfill the intent and purposes of the Act.
  
- (3) **Procedures.** The Planning Commission may prepare and adopt rules of procedure to guide the Commission's official conduct. Said rules shall be prepared in accordance with all applicable provisions of the Act [§4321-§4328] and Vermont's Open Meeting Law [1 V.S.A. §310-314].

**Section 6.2 Permits and Applications**

(A) **Zoning Permit.** In accordance with the Act [§4449], no development may be commenced and no structure erected, substantially improved, moved, or changed in use without a zoning permit issued by the Zoning Administrator, unless specifically exempted under Section 6.3.

(B) **Application Requirements.** All applications shall be submitted to the Zoning Administrator on forms provided by the Town with application fees as established by the Select Board. In addition, the following applicable items will be required:

- (1) **Permitted Uses.** Application for a permitted use shall be accompanied by one (1) copy of a sketch plan, no smaller than 8.5" x 11", drawn to an appropriate scale to accurately depict and include:
  - a. The dimensions of the lot including existing and proposed property boundaries;
  - b. The location, footprint and height of the existing and proposed structure and additions;
  - c. Setbacks from property boundaries, rights-of-way, surface water and wetlands;
  - d. The location of existing and proposed easements, rights-of-way, and utilities;
  - e. The existing or intended use of all structures on the lot; and

- f. Other information as may be necessary to determine conformance with these regulations.
- (2) **Uses Requiring Conditional Use or PUD Approval.** Uses that require approval under conditional use, flood hazard area, or planned unit development review shall include a development review application and site development plan prepared and submitted in accordance with Section 5.1 of these regulations.
- (3) **Uses Subject to State Agency Referrals.** For any permit application subject to state agency referral requirements, a brief report describing the proposed use and location, as well as an evaluation of the effects of such use on municipal and regional plans currently in effect, shall be attached for submission by the Zoning Administrator to the state.
- (4) **Flood Hazard Areas.** Any application for development within the Flood Hazard Overlay District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources, the Federal Insurance Administrator, and adjacent municipalities in accordance with the Act [§4424(D)] and Section 2.4.

(C) **Issuance of Permits.**

- (1) **Required Approvals.** The Zoning Administrator shall not issue a zoning permit unless an application, fee and any approvals required by these regulations have been received. If the proposed land development or land use requires approval by the Development Review Board, the application shall be deemed incomplete until such time as the DRB conducts its review and renders a decision.
- (2) **Action by the Zoning Administrator.** The Zoning Administrator shall within 30 days of submission of a complete application either issue or deny a zoning permit in writing, or refer the application to the Development Review Board and/or state for consideration, in accordance with the Act [§4449, §4465]. The permit shall contain a written statement of the period of time within which an appeal may be taken. If the Zoning Administrator fails to act within 30 days of receiving a complete application, a permit shall be deemed issued on the 31st day, in accordance with the Act [§§4448, 4449].
- (3) **Permits in the Flood Hazard Area.** Permits issued for land development in the flood hazard area shall contain a notation that such land development is located in regulated flood hazard area.
  - a. Prior to issuing a permit a copy of the application and supporting information shall be submitted by the administrative officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
  - b. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River

Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

c. Proposed development shall be reviewed by the administrative officer or the appropriate municipal panel to assure that all necessary permits have been received from those government agencies from which approval is required by Federal, State or Municipal law.

- (4) **Amendment to the Zoning Regulations.** Pursuant to the Act [§4449(d)], if a public notice is issued with respect to the adoption or amendment of these regulations, or an amendment to an ordinance adopted under prior enabling laws, the Zoning Administrator, for a period of 150 days following that notice, shall review any new application filed after the date of the notice under the proposed regulation or amendment and applicable existing regulations and ordinances. If the new regulation or amendment has not been adopted by the conclusion of the 150-day period or if the proposed regulation or amendment is rejected, the permit shall be reviewed under existing regulations and ordinances. An application that has been denied under a proposed regulation or amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing regulations and ordinances, upon request of the applicant. Any determination by the zoning administrator under this section shall be subject to appeal as provided in §4465 of the Act.

**(D) Effective Date of Permit and Appeal Period.**

- (1) **Effective Date.** Within three days following the issuance of a Zoning Permit:
- a. The Zoning Administrator shall deliver a copy of the permit to the Moretown Board of Listers;
  - b. The Zoning Administrator shall post a copy of the permit in at least one public place in the municipality for a period of 15 days from the date of issuance.
  - c. The applicant, property owner, or applicant's/owner's agent must post a permit notice, on a form prescribed by the Town of Moretown 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 and information as to where a full description of the project and approval can be found.
- (2) **Appeal Period.** No zoning permit shall take effect until the time for appeal has passed (see Section 6.6), or in the event that a notice of appeal is filed properly, such permit shall not take effect until final adjudication of said appeal.

**(E) Expiration and Renewal of Permit.** A zoning permit shall remain valid for two (2) years from the date it is issued. If before that time expires, the applicant files a renewal application and has made substantial progress of the land development described in the permit, the Zoning Administrator shall issue not more than two consecutive 12-month permit renewals without fee. If a zoning permit expires without substantial land development the permit shall become null and void.

(F) **Permit Fees.** The Select Board shall establish application fees to be charged in administering these regulations, with the intent of covering the Town's administrative costs. The application fees may be revised periodically.

### Section 6.3 Exemptions

(A) No zoning permit shall be required for the following: (NOTE: Several of the exemptions listed here may not apply in the Special Flood Hazard Area)

- (1) Any use commenced prior to the adoption of these regulations provided such use was in accordance with all applicable local regulations in effect at the time of commencement, or any building for which construction has begun prior to the adoption of these regulations, provided such construction is in accordance with all applicable local regulations in effect at the time construction was initiated and is providing the construction is completed within one year from the date of such adoption.
- (2) Accepted Management Practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks and Recreation, pursuant to the Act [§4413(d)].
- (3) Accepted Agricultural Practices (AAPs) including farm structures, as defined by the Secretary of Agriculture, Food and Markets in accordance with the Act [§4413(d)]; however written notification including a sketch plan of the structure showing setback distances from road, rights-of-way, property lines, special flood hazard areas and floodway boundaries, and surface waters shall be made to the Zoning Administrator prior to any construction as required by the Act [§4413(d)].
- (4) Any residential fence or wall that is less than six and half (6.5) feet in height and which does not extend into or obstruct public rights-of-way, or interfere with corner visibility or site distances for vehicular traffic.
- (5) Any shed, tree house, doghouse, a child's play house, or similar structure with a floor area of not more than one hundred fifty (150) square feet and a height of not more than twelve (12) feet, which is located at least 10 feet from all property lines.
- (6) Any sign erected by the Town or State for directional, informational or traffic control purposes and other signs exempt under Section 4.12 (8) of this ordinance.
- (7) Garage sales, yard sales, auctions or similar types of sale for a period of not exceeding three consecutive days, nor more than eight days per calendar year, which are managed so as not to cause unsafe traffic conditions, parking problems, or other nuisances to neighbors.
- (8) The ordinary use of a small room of a dwelling for personal office use and/or paperwork for business activity. Interior alteration of a structure that does not result in a change of use of the structure or any expansion in the total area of the structure.

- (9) Placement or grading of less than 200 cubic yards of gravel, sand, topsoil, rock, or similar material per calendar year if the placement or grading involves:
- a. Town Road maintenance and improvement where fill is placed on private property,
  - b. Driveway maintenance or construction (including culvert repair and resurfacing)
  - c. Property and Yard improvements associated with customary residential or agricultural uses to principal structures (contouring yards, establishing garden and landscape areas)
  - d. Placement of fill on unimproved lots, or
  - e. Landfill associated with other permitted activities (see Section 4.6).

These exemptions do not apply to placement of fill in streams, within required stream setbacks, or within wetlands or the floodplain/floodway, which are prohibited or require special permits from state agencies. Section 4.11; table 2.5 and section 5.2 (e).

- (10) The placement above or below ground of any fuel storage tank designed and intended for residential use, provided said tank is located at least 10 feet from all property lines.
- (11) The drilling of a well for residential use.
- (12) 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 recreational facilities.

### **Section 6.4 Referral to State Agencies**

(A) The Zoning Administrator shall advise applicants to contact the Agency of Natural Resources regional permit specialist to determine whether any state permits are required [§4448(d)]. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.

### **Section 6.5 Notice Requirements**

(A) **Notice Procedures.** All development review applications before the Development Review Board under procedures set forth in §4464 of the Act shall require notice as follows:

- (1) A warned public hearing shall be required for conditional use review, variances, zoning administrator appeals, and final plat review for subdivisions. Any public notice required for a warned public hearing under these regulations shall be given not less than 15 days prior to the date of the public hearing by all of the following:
- a. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the Town.
  - b. Posting of such notice in three or more public places within the Town in conformance with location requirements of 1 V.S.A. §312(c)(2), including posting

within view from the public right-of-way most nearly adjacent to the property for which an application is made..

- c. The notice shall include the date, place and purpose of such a hearing, and shall be sent by mail to the applicant. In accordance with Section 5.1, the applicant shall provide abutting property owners with a notice of application for a permit which shall include a description of proposed structures or uses, the property location, the name of the landowner and applicant, and notice that a public hearing will be scheduled and that they can contact the Town for the date of said. Abutting properties shall include those which are across public or private roads, providing they are within 200 feet of the subject parcel.

(2) Public notice for hearings of all other types of development review, including site plan review, shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum all of the following:

- a. Posting of the date, place and purpose of the hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A §312(c)(2).
- b. The notice shall include the date, place and purpose of such a hearing, and shall be sent by mail to the applicant. In accordance with Section 5.1, the applicant shall provide abutting property owners with a notice of application for a permit which shall include a description of proposed structures or uses, the property location, the name of the landowner and applicant, and notice that a public hearing will be scheduled and that they can contact the Town for the date of said. Abutting properties shall include those which are across public or private roads, providing they are within 200 feet of the subject parcel.

(B) **Invalid Posting or Notice.** In accordance with §4464(a)(5), no defect in the form or substance of any requirements in Section 6.5 (A) shall invalidate the action of the Development Review Board where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If action is ruled to be invalid by the environmental court or by the applicable municipal panel itself, the action shall be remanded to the applicable municipal panel to provide new posting and notice, hold a new hearing, and take a new action.

## **Section 6.6 Appeals**

(A) **Appeal of a Decision or Action by the Zoning Administrator.** In accordance with the Act [§4465] any **interested person** may appeal a decision or act taken by the Zoning Administrator by filing a notice of appeal with the Development Review Board's Secretary or the Town Clerk if no Secretary has been elected, within fifteen (15) days of the date of such decision or act.

(B) **Appeal of a Development Review Board Decision.** Any **interested person** may appeal a decision of the Development Review Board within thirty (30) days of such decision to the Vermont Environmental Court, in accordance with the Act [§§4471 and 4472]. Notice of appeal shall be sent to every hearing participant.

**(C) Appeal Procedures.**

- (1) **Notice of Appeal.** A notice of appeal shall be in writing and shall include:
  - 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 the applicable regulatory provisions;
  - d. The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations;
  - e. The alleged grounds why such relief is believed proper under the circumstances; and
  - f. Any applicant for a variance shall submit, in addition to zoning permit application requirements, under Section 6.2, two complete copies of a Site Development Plan, meeting the criteria set forth in Section 5.1 (A), including evidence of notice to all adjoining property owners.
  
- (2) **Hearing.** Pursuant to the Act [§4468], the Development Review Board shall set a date and place for a public hearing on an appeal, which shall be within 60 days of the filing of the notice of appeal. Any hearing held under this section 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. For an appeal for the variance within a floodplain area, the Board shall give notice of the date and place of the hearing to the Vermont Agency of Natural Resources. Where it is alleged that an error has been committed in any order, requirement, decision or determination made by the Zoning Administrator in the connection with the enforcement of these regulations, the Board shall consider available evidence and testimony and decide whether such error has been committed.
  
- (3) **Decisions on Appeal.** A decision on appeal, to include written findings of fact, shall be rendered within forty-five (45) days after hearing completion. The Development Review Board may reject an appeal without hearing, and render a decision within ten (10) days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal, or are based on substantially or materially the same facts, by or on behalf of the appellant, in accordance with § 4470. Copies of the decision shall be mailed to the appellant and hearing participants, and filed with the Zoning Administrator in accordance with the Act. Failure of the Board to issue a decision within the 45-day period shall be deemed approval and shall be effective on the 46<sup>th</sup> day.

**Section 6.7 Variances**

**(A) Variance Request.** The Development Review Board shall hear and decide upon requests for variance pursuant to the Act [§4469] and appeal procedures set forth in Section 6.6 of these regulations. **The Board may grant a variance, and render a decision in favor of the appellant, only if *all* of the following facts are found and the findings are specified in its decision:**

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- (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 zoning regulations in the district in which the property is located;
- (2) That because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) That such unnecessary hardship has not been created by the appellant;
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
- (5) That the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulations and the Town Plan.

**(B) Renewable Energy Resource Structure Variance Request.** On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that all of the following facts are found in the affirmative and specified in its decision:

- (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations.
- (2) The hardship was not created by the appellant.
- (3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
- (4) The variance, if authorized, will represent the minimum variance that will afford relief and well represent the least deviation possible from these regulations and from the Town Plan.

**(C) Variance Request in the Floodplain District.** In addition to requirements under subsection (A), variances for development within the Floodplain District shall be granted by the Development Review Board only:

- (1) In accordance with the Act [§4469 and 4424] and the criteria for granting variances found in CFR, Section 60.6 of the National Flood Insurance Program;
- (2) Upon determination that during the base flood discharge the variance will not result in increased flood levels; and

For variances for development within the Floodplain District, the Zoning Administrator shall notify the applicant in writing that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

(D) In **granting a variance**, the Development Review Board may impose conditions that it deems necessary and appropriate under the circumstances to implement the purposes of this chapter and the Town Plan currently in effect. In no case shall the Development Review Board grant a variance for a use, which is not permitted or conditionally permitted within the applicable district nor shall the Board grant a variance, which results in an increase in allowable density.

## **Section 6.8 Violations and Enforcement**

(A) **General Provisions.** The commencement or continuation of any land development, subdivision or land use that is not in conformance with any provision of these regulations shall constitute a violation. All such violations shall be prosecuted in accordance with the Act [§4451 and §4452]. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Town of Moretown, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

(B) **Notice of Violation.** No action may be brought under this section unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists. The seven-day warning notice shall state:

- (1) That a violation exists;
- (2) That the alleged offender has an opportunity to cure the violation within the seven days;  
and,
- (3) That the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the regulations or ordinance after the seven-day notice period and within the next succeeding twelve (12) months.

(C) **Limitations on Enforcement.** An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act [§4454]. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records under Section 6.9.

(D) **Penalties.** Any person who violates any provision of this bylaw shall be fined the highest permissible fine allowed under the Act. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation shall each pay double amount of any such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the National Flood Insurance Program (NFIP) requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

(E) **Remedies.** If any structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of any bylaw adopted under this chapter the Zoning Administrator shall institute proceeding to prevent, restrain, correct or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

### **Section 6.9 Recording Requirements**

(A) Pursuant to the Act [§4449], within thirty (30) days after a municipal land use permit including but not limited to a zoning permit and associated conditional use, PUD and/or variance approvals, and certificate of compliance, has become final, or within thirty (30) days of the issuance of a notice of violation, the Zoning Administrator shall deliver the notice of violation, or memorandum or notice of recording, to the Town Clerk for recording as provided in 24 V. S. A. subsections 1154(a) and (b). The applicant may be charged for the cost of recording fees.

(B) For development within the Floodplain District, the Zoning Administrator shall also maintain a record of:

- (1) All permits issued for development in areas of special flood hazard;
- (2) The elevation, in relation to mean sea level, of the lowest floor, including basement, or all new or substantially improved buildings;
- (3) The elevation, in relation to mean sea level, to which buildings have been floodproofed;
- (4) All floodproofing certifications required under this regulation; and,

- (5) All variance actions, including the justification for their issuance. The Zoning Administrator shall notify the applicant in writing that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

## ARTICLE VII DEFINITIONS

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### Section 7.1 Terms and Usage

(A) Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in Article VII shall have the meanings indicated below.

(B) Words, phrases, and terms defined herein or elsewhere in these bylaws shall have their usual and customary meanings except where the context clearly indicates a different meaning.

(C) The words and terms used, defined, interpreted or further described in Article VII shall be construed as follows:

- (1) The particular controls the general.
- (2) The present tense includes the future tense.
- (3) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- (4) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (5) The word "shall" is mandatory; the word "may" is discretionary; the term "generally shall" is mandatory unless the Development Review Board or other applicable body deems otherwise in accordance with these regulations.
- (6) The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- (7) The word "lot" includes "parcel" and "plot."

Doubt as to the precise meaning of any word used in this bylaw shall be clarified by the Development Review Board.

### Section 7.2 Definitions

**ACCESSORY DWELLING UNIT:** An efficiency or one-bedroom apartment, located within, attached, or detached to a single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- The owner occupies either the primary dwelling or accessory dwelling
- The property has sufficient wastewater capacity
- The unit does not exceed 1050 square feet
- Applicable setback, coverage, and parking requirements specified in the bylaws are met. 24 V.S.A. §4412(1)E [Refer to Section 3.1]

**ACCESSORY STRUCTURE:** A structure, the use of which is incidental and subordinate to the principal use or structure and is located on the same lot. Examples of accessory structures include patios, permanent swimming pools, porches, garages, tool sheds, workshops, decks and gazebos, boathouses, and docks. See also Accessory Dwelling Unit, Accessory Use.

**ACCESSORY USE:** A use that is incidental and subordinate to a principal use located on the same lot. Accessory uses may include home occupations, day care centers or group homes within single-family residences. See also Accessory Use, Accessory Dwelling Unit.

**ADAPTIVE REUSE:** The development of a new use for an older building or for the conversion to another use of a building originally designed for a special or specific purpose. [Refer to Section 3.2]

**AGRICULTURE:** Land (containing at least two acres) which is used for raising livestock, or agricultural or forest products, including farm structures and the storage of agricultural products raised on the property. The disposal, processing or application of human sludge is not an agricultural use.

**ALLOWABLE DENSITY:** The maximum number of units (e.g., dwelling units, principal uses) allowed on a particular lot, based upon the minimum lot size for the zoning district within which the lot is located.

**AUTOMOBILE SALES AND SERVICE:** Land or structures used for either or both the sale of new or used vehicles, and the maintenance, servicing, and repairing of vehicles.

**BANK:** An institution where money is deposited, kept, lent or exchanged.

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

**BASE FLOOD ELEVATION:** Base Flood Elevation (BFE) the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

**BED AND BREAKFAST** A single-family dwelling in which not more than ten (10) rooms are offered for rent to transient guests on a nightly basis, in addition to the principal occupants who shall reside on premise. Central dining and food preparation facilities may be provided sufficient to serve registered guests; cooking facilities shall not be provided in individual guest rooms.

**BRIDGE:** A structure, designed to convey vehicles and/or pedestrians, spanning a watercourse, public or private right-of-way or depression.

**BUILDING:** A structure having a roof, supported by columns or walls, and intended for shelter or enclosure of persons, chattel, animals, equipment, goods, or materials of any kind or nature.

**BUSINESS OFFICE:** [See Professional/Business Office]

**CAMP:** A private hunting, fishing or other recreational camp, consisting of a building or a tent not suitable for use as a full-time dwelling, but used no more than 60 days during the course of year and no more than 3 weeks consecutively, for temporary shelter in connection with a recreational activity, provided that such camp is located on a separate parcel not less than the lot size of the district and that only chemical incinerator or privy type toilet facilities are used.

**CHILD DAY CARE FACILITY** A place operated as a business or a service on a regular basis, whose primary function is protection, care and supervision of children outside their homes for periods less than twenty-four (24) hours a day by a person other than a child's own parent or guardian. [Refer to Section 3.4]

**COMMUNITY CENTER:** A place, structure, area or other facility used for recreational, social, education and cultural activities usually owned and operated by a public or nonprofit group or agency.

**CONDITIONAL USE:** A use of land which is not permitted as a right under these regulations, but which can be allowed by the Development Review Board, after public notice and a determination of whether the use complies with standards contained in these regulations and upon which the Development Review Board may attach reasonable conditions.

**COTTAGE INDUSTRY:** A home-based business that meets the specific standards set out in Section 3.7 of this bylaw.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Also includes all activities as defined under "LAND DEVELOPMENT". Development shall not include customary property maintenance activities.

**DRIVEWAY:** A vehicular access, easement or right-of way serving a maximum of two (2) parcels.

**DWELLING UNIT:** One or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. The term "dwelling unit" shall not include a hotel, motel, boarding house or similar structure. A Single Family home is equal to one dwelling unit.

**DWELLING, MULTIPLE-FAMILY:** A building containing two or more dwelling units, excluding ACCESSORY DWELLINGS UNITS.

**ENCLOSED STORAGE:** A building, the whole or major parts of which may be rented out to persons wishing to store belongings for a period of time.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** For the purpose of floodplain management, 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 floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR**

**SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FIA:** Federal Insurance Administration

**FAMILY:** One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

**FAMILY DAY CARE HOME OR FACILITY:** A facility that provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this regulation, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

- (a) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and,
- (b) during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older) and who reside in the residence of the caregiver. 33 V.S.A. § 4902(3)

**FLOOD HAZARD AREA:** Land subject to one percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Hazard Boundary Map. For purposes of these regulations, the term "flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard" and "special flood hazard area".

**FLOOD HAZARD BOUNDARY MAP (FHBM):** An official map of a community, issued by the Federal Insurance 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 MAP (FIRM):** An official map of a community issued by the Federal Insurance Administrator on which both special hazard areas and risk premium zones applicable to the community have been delineated.

**FLOOD INSURANCE STUDY:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

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

**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 foot.

**FORESTRY:** The developing, caring for or cultivating of forests, or the management and harvesting of timber.

**GASOLINE STATION:** Any premise where gasoline, petroleum and other fuel products are sold and/or vehicular maintenance activities are conducted. Specific standards are set out in Section 3.6

**HEALTH CLINIC:** A facility or institution, whether private or public, principally engaged in providing services for health maintenance and for the diagnosis and treatment of human ailments.

**HEAVY INDUSTRY:** A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

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

**HOME OCCUPATION:** An occupation, carried on within a principal or accessory residential structure, which is clearly incidental and secondary to the use of the premises for dwelling purposes, and which does not have an undue adverse effect upon the character of the residential area in which the premises is located and meets the specific standards set out in Section 3.7.

**HOTEL/MOTEL:** A building containing bedrooms and other facilities for occupancy and use by transients on a short term basis of less than one month average, and having a management entity operating the building(s) and providing such services as maid service, a central switchboard, or dining facilities to occupants of the lodging facility.

**INTERESTED PERSON:** In accordance with the Act [§4465(b)], the definition of an interested person shall include the following:

1. The applicant;
2. The municipality of Moretown or an adjoining municipality;

3. A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or regulations of the Town;
4. Any 10 persons owning real property within the Town who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the plan or bylaw of the Town;
5. Any department or administrative subdivision of the State owning property or any interest therein within the Town or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

**LAND DEVELOPMENT:** The division of a parcel of land into two (2) or more parcels; construction, reconstruction, structural alteration, conversion, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. Also includes all activities as defined under "DEVELOPMENT". Land Development shall not include customary property maintenance activities.

**LIGHT INDUSTRY:** A use providing for the manufacturing predominately from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products or components, but excludes basic industrial processing; and meets the specific standards in Section 3.8. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc.

**LOT:** Land used or occupied or to be used or occupied by a building and its accessory buildings, having not less than a minimum area and dimensions required for a lot in the district in which such land is situated.

**LOT COVERAGE:** The percentage of lot area which is covered by buildings, structures, and other impervious surfaces, including driveways and parking areas.

**LOWEST FLOOR:** For the purpose of floodplain management, means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

**MANUFACTURED HOME:** See Mobile Home

**MIXED-USE BUILDING:** A single structure containing more than one type of land use (i.e., residential and commercial), planned as a unified complementary whole, and functionally integrated to use shared access, parking areas, etc.

**MOBILE HOME:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

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- Transportable in one or more sections; and
- At least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- Any structure that meets all the requirements of these regulations except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code 10 V.S.A. § 6201(1).

For floodplain management purposes, the term "mobile or manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "mobile or manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**MOBILE HOME PARK:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, two or more mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile home park does not mean any parcel of land under the ownership of 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).

**MODULAR (or Prefabricated) HOUSING:** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MOTOR VEHICLE:** Includes all motor vehicles capable of being registered for legal operation of Vermont highways. Specifically excluded from this definition are all terrain vehicles (ATVs), boats and associated trailers, snow-machines and construction and excavation equipment.

**MUNICIPAL LAND USE PERMIT:** Includes any zoning, subdivision, site plan or building permit or approval, any of which relate to land development as defined in statute, which has received final approval from the applicable board, commission or officer of the municipality [24 V.S.A. §4303(11)].

**MULTI-FAMILY DWELLING:** Includes

**NONCONFORMING LOTS OR PARCELS:** 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 administrative officer.

**NEW CONSTRUCTION:** Means, for the purposes of determining flood insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the

floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION:** For the purpose of floodplain management, 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 on or after the effective date of the floodplain management regulations adopted by a community.

**NONCONFORMING STRUCTURE:** A structure or part thereof not in conformance with the present zoning regulations covering building bulk, dimensions, height, area, yards, density of off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of such zoning regulations, including a structure improperly authorized as a result of error by the administrative officer. [See Section 4. 8]

**NONCONFORMING USE:** A use of land or a structure which does not comply with present zoning regulations where such use conformed to all applicable laws, ordinances and regulations prior to the enactment of such regulations, including a use improperly authorized as a result of error by the administrative officer.[See Section 4.8]

**NURSING HOME/EXTENDED CARE FACILITY:** An extended or intermediate care facility licensed or approved to provide a full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**PARKING SPACE:** Off-street space used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and twenty-feet long, not including access driveway, and having direct access to a street or alley. [See Section 4.10]

**PLACE OF WORSHIP:** A church, synagogue, temple, mosque or other facility used for conducting formal religious ceremonies or services on a regular basis.

**PLANNED UNIT DEVELOPMENT (PUD):** One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from 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.

**PRIVATE CLUB:** Buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

**PROFESSIONAL/BUSINESS OFFICE:** A room or group of rooms wherein services are performed involving predominately administrative, clerical or professional operations.

**PUBLIC ASSEMBLY FACILITY:** A facility owned, operated, and/or maintained by a municipal, state, federal or community non-profit agency or service organization for use or access by

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the general public, including but not limited to office, meeting, assembly, cultural, and social facilities. A post office operated by the U.S. Postal Service is included in this definition. Educational and recreation facilities, defined elsewhere, are specifically excluded from this definition.

**PUBLIC FACILITY/SERVICE:** Services and associated facilities maintained by municipal, state or federal government, community non-profit agencies or regulated utilities which serve but are typically not open to the general public, including but not limited to ambulance and fire stations, garages and equipment sheds, water and wastewater facilities, solid waste management facilities, and other institutional facilities where public access is prohibited, limited or controlled. Community facilities, electric utilities and telecommunications facilities, defined elsewhere, are specifically excluded from this definition.

**RECREATION FACILITY, INDOOR:** Includes indoor bowling alley, theater, table tennis and pool hall, skating rink, gymnasium, swimming pool, hobby workshop, and similar places of indoor commercial recreation.

**RECREATION FACILITY, OUTDOOR:** Any facility for outdoor recreation, including but not limited to tennis courts, golf courses, athletic fields, shooting and archery ranges, swimming pools or beaches, and trails for hiking, horseback riding, bicycling, snowmobiling and cross-country skiing, with the exception of facilities that are accessory to a residential dwelling. Such facilities may be improved or unimproved.

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

**RESTAURANT:** A structure for public eating in which the primary business is the preparation and serving of food for consumption on the premises.

**RETAIL STORE:** Establishment where goods or merchandise are offered for retail sale or short term rental to the general public for personal, business or household consumption and services incidental to the sale of such goods are provided. Retail Store shall exclude any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

**ROAD:** Any road, highway, avenue, street, land or other way between right-of-way lines, commonly used for vehicular traffic and serving three or more lots.

**ROAD FRONTAGE:** Lot lines which abut a public road.

**SIGNS:** A structure, or device used for visual communication, which is used for the purpose of bringing the subject thereof to the attention of the public or to display, identify and publicize the name, product, or service of any person.

**SINGLE-FAMILY DWELLING:** Includes

**SPECIAL FLOOD HAZARD AREA:** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard" and "flood hazard area"

**STABLE:** A structure in which livestock is kept for private use, remuneration, hire, or sale.

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

**STREAM:** All surface waters as depicted on 1:24,000 (7.5 minute) U.S. Geological Survey (USGS) maps covering the Town of Moretown. The following USGS 7.5 minute quadrangles cover Moretown: Middlesex, Waterbury, Waitsfield, and Northfield. These quadrangles are available at the Town Clerk's Office.

**STRUCTURE:** An assembly of materials for occupancy or use including, but not limited to, a building, mobile home or trailer, or swimming pool. Walls and fences are exempt (See BUILDING). Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

**SUBDIVISION:** Division of any parcel of land for the purposes of conveyance, transfer of ownership, lease, improvement, building, development or sale, whereby two (2) or more lots, blocks or parcels are created. The term "subdivision" includes re-subdivision.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** 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: a) before the improvement or repair is started; or b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either (1) any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

**TELECOMMUNICATIONS FACILITY:** A facility which is primarily for commercial, industrial or public communication or broadcasting purposes, to include towers or other supporting structures which extend vertically twenty (20) feet or more, equipment, buildings and parking areas, and other ancillary development (see Section 3.14).

**TEMPORARY STRUCTURE:** A structure designed for limited use with no foundation or footings, which is easily relocated and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**VIOLATION OF FLOODPLAIN MANAGEMENT REGULATIONS:** Means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

**WETLANDS:** Those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas as grow food or crops in connection with farming activities. Class I and II wetlands are those wetlands that have been identified by the Vermont Agency of Natural Resources as significant. Information regarding whether a wetland has been identified as a Class I or II wetland is available from the Agency's Department of Environmental Conservation.

**WILDLIFE REFUGE:** An area set aside for the conservation of plants, animals and their habitat. These are noncommercial areas usually without any structures on them. A single parking area and walking trails are characteristic of a wildlife refuge.

**WIND TURBINE:** Includes

**YARD:** Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard. The front yard is measured from the street centerline to the point on building closest to the street. Side and rear yards are measured from the lot line to the point of the building closest to the lot line.

**ZONING PERMIT:** The permit issued by the Zoning Administrator, which authorizes development when such development has been determined to be in accord with these regulations and the applicable fee paid (see Section 6.2).

**APPENDIX**

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Appendix A: Zoning District Descriptions

Appendix B: Zoning Map

## Moretown Zoning District Descriptions

The location and boundaries of zoning districts are established as shown on the official "Town of Moretown Zoning Map", and the associated overlays, which is made part of these regulations. The official zoning map and overlays shall be located in the Town Clerk's office and shall be the final authority as to the current zoning status of land and waters in the town.

Where uncertainty exists as to the location of district boundaries shown on the official zoning map and overlay, the guidelines included in Section 2.2 of the regulations shall apply. To assist with the application of those guidelines, the following general district descriptions may be used.

**VILLAGE DISTRICT** includes those areas:

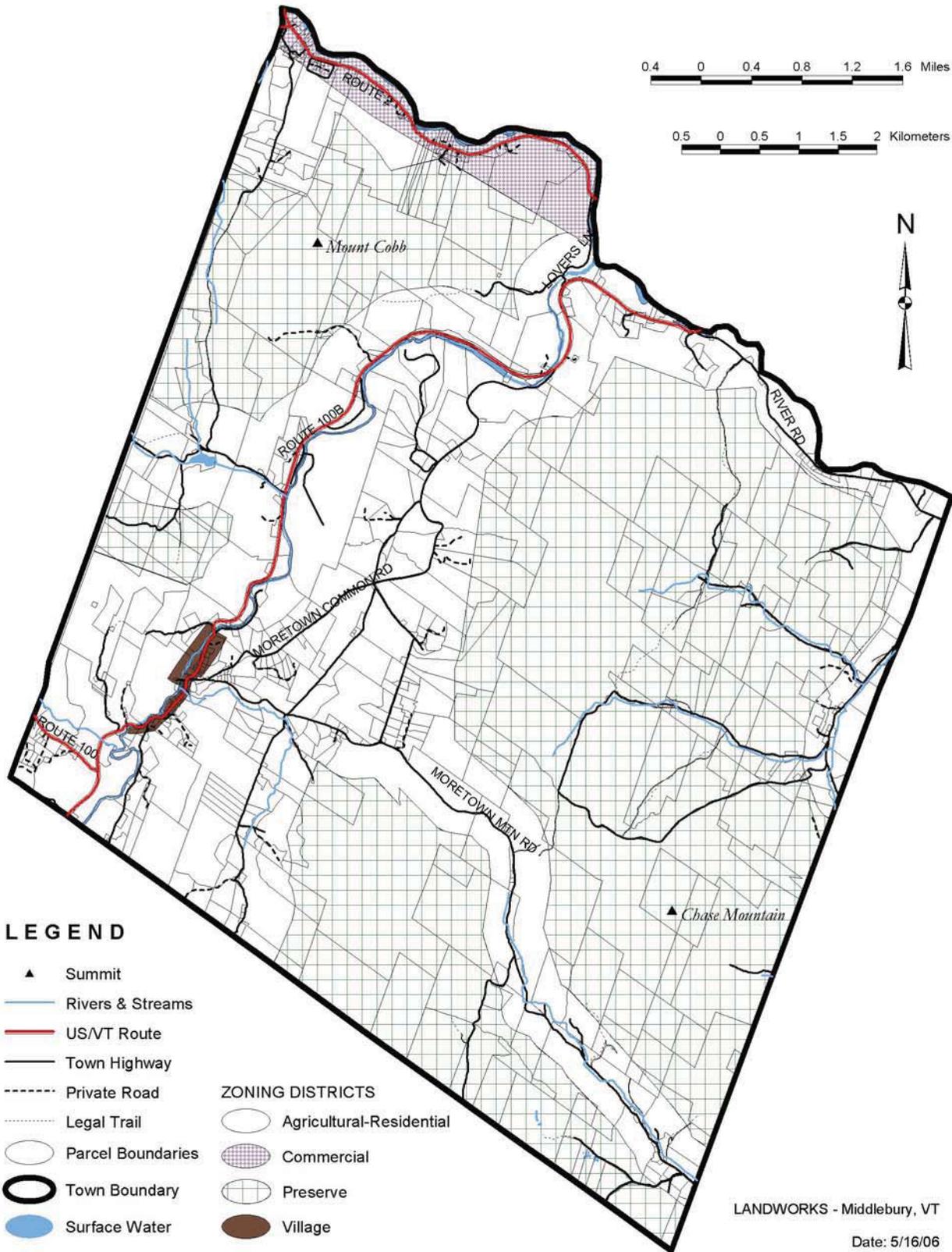
- (1) A strip of land running southerly from the cement bridge (#3) by the Fire Station, measured from Route 100B to the Mad River on the west and 200 feet to the east of Route 100B, to the intersection of Route 100B and the Austin/Pony Farm Road (Town Highway #3); and, a strip 250 feet wide, on both sides of Route 100B, southerly from the intersection of Town Road #3 and Route 100B to the Mad River.
- (2) North of the cement bridge (#3) by the Fire Station, to the former Iron Bridge (#4) over the Mad River, extending 500 feet to the east of Route 100B, and to the Mad River on the west of Route 100B;
- (3) A strip of land measured 250' west from the Mad River, including those parcels west of the Mad River fronting upon Town Road #39, northerly to the Trudy Murphy Road.

**COMMERCIAL DISTRICT** starts at the lower (northerly) end of Lovers' Lane where VELCO lines cross the Winooski River and road, extending northerly along Route 2 to the Moretown/Duxbury Town line, including all land between Route 2 and the Winooski River; and from Lovers' Lane to the Moretown/Duxbury Town line on the south side of Route 2, the line follows the VELCO transmission line to the Moretown/Duxbury Town line.

**AGRICULTURAL-RESIDENTIAL DISTRICT** is generally measured as a setback from Town Roads, as scaled from the Official Zoning Map, unless the boundary coincides with the Mad River or other physical feature.

**PRESERVE DISTRICT** includes all lands not otherwise zoned as Village, Commercial, or Agricultural-Residential.

### Moretown Zoning Map



Roads - 1:5,000 VGIS/E911 Roads 2006  
 Surface Waters - 1:5,000 VGIS  
 Town Boundary - 1:5,000 Parcel Data

Data is only as accurate as the original source. This map is for planning purposes only.  
 LandWorks does not guarantee the accuracy of this data.

## Section 3.5 Extraction of Earth Resources

### A. Definitions

“Character of the area” refers to the distinctive traits, qualities or attributes, appearance and essential nature, pattern of uses, sense of community, and the factors which give it identity within the same area or nearby, including but not limited to the area within sight and/or sound.

“Commercial” means a use or activity whose byproducts are available for sale to the public and is carried on for profit by the owner, lessee.

“Earth extraction, Major” means the commercial or non-commercial extraction and processing of earth resources such as topsoil, sand, and gravel, which may include some on-site preparation activities such as screening and crushing.

“Earth extraction, Minor” means the infrequent, low-impact removal of topsoil, sand, or gravel from a site that requires no on-site preparation or processing. For the purposes of this ordinance, minor earth extraction shall be limited to no more than 45 cubic yards per day and no more than 3 truck trips per day.

“Extension” means continuation of a preexisting operation onto an adjacent parcel of land, or any substantial increase in the rate of extraction, or substantial change in the type of operation, or of traffic or equipment associated with a preexisting operation. A substantial change is one that could have an adverse effect on the character of the area, natural resource values, or infrastructure.

“Heavy Industry” is a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable, explosive, and radioactive materials, pesticides and herbicides, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. Examples of heavy industry include quarrying or mining operations.

“Nuisance” is a legal term referring to any land use whose associated activities are incompatible with surrounding land uses and the character of the area, or an activity that annoys or seriously disturbs other property owners making it discomforting and unpleasant to use their own property, or may devalue that property monetarily.

“Quarrying, Major” means the systematic, long-term excavation from an open pit or mine for commercial purposes from which rock or minerals are extracted by digging, cutting or blasting. Facilities such as offices, heavy equipment, machinery and stockpiles of materials are kept on site. Major Quarrying is not permitted within the Town of Moretown.

“Quarrying, Minor” means the excavation of rock or minerals by digging, cutting or blasting. For the purposes of this ordinance, minor quarry shall imply a limited time frame of 12 consecutive months in a 10-year time period for the quarrying activity. Minor quarrying shall also be limited to no more than cubic 45 yards per day and no more than 3 truck trips per day.

“Undue adverse impact” is an unfavorable, opposed, or hostile consequence for the physical, natural, social, or economic environment, which is more than necessary – exceeding what is appropriate or normal.

## **B. Exemptions**

1. Blasting which is customarily incidental to a permitted or conditional construction activity and does not exceed 4 weeks in duration.
2. Earth extraction which is customarily incidental to permitted or conditional construction activity.
3. Municipal road maintenance activities.
4. Earth Extraction that is incidental to the waste management business of the Moretown Landfill, Inc. is exempt under this bylaw.

## **C. Minor Earth Extraction**

Any new or extended minor earth extraction operation shall be permitted in all zoning districts except the Village District, subject to conditional use review in accordance with Section 5.2 and findings that the proposed activity meets the following definitions, standards and conditions.

### **1. Application Requirements**

In addition to application requirements under Section 6.2 and 5.1, the applicant shall submit two (2) copies of an acceptable erosion control and site restoration plan to ensure that upon completion of the excavation operations the abandoned site will be left in a safe, attractive, and useful condition. Plans shall include the following information:

- a. Existing grades, drainage and depth to water table;
- b. The extent and magnitude of the proposed operation, including hours of operation, routes of transportation, amount of material to be removed, and a timetable for completion of the operation;
- c. Finished grades and proposed vegetation and trees at the conclusion of the operation.
- d. Plans shall be in accordance with other applicable local or state provisions or requirements (i.e. wetlands).

### **2. Standards**

In granting approval, the Development Review Board shall consider and impose conditions with respect to the following standards:

- a. In any new operation, the area excavated at any one time shall not exceed 1 acre (43,560 square feet). Smaller areas may be designated if necessary to protect the character of the area where the operation is located.

- b. The days and hours of operation shall be limited to 8am – 5pm Monday through Friday so as to ensure reasonable quiet and compatibility with other uses in the area.
- c. The removal of all material shall be conducted so as to result in the improvement of the land, having due regard to the contours in the vicinity, such as leveling slopes and removing hills. The digging or creating of pits or steep slopes shall not be permitted, unless provision is made to regrade such pit and reduce such slopes
- d. No stockpile shall exceed 20 feet in height. No excavation, alteration or removal of vegetation shall be made within 50 feet of the property line of the subject parcel, 200 feet from an existing dwelling and 100 feet from an existing public right-of-way, except at the conclusion of operations if required in order to improve the overall grading or restoration. In all cases an undisturbed buffer shall be maintained around all property lines. With regard to property line setbacks only, the DRB has the discretion to reduce setback distances if it determines that such a reduction in distance will not have an undue adverse affect on abutting landowners and on the character of the area.
- e. Removal shall not result in a cover of less than three feet of native, undisturbed material over any water table, such water table elevation to be established at a seasonally high level.
- f. All surface drainage affected by removal operation shall be controlled by the owner to prevent erosion debris and other loose material from filling any drainage course, street, or private property, and shall not result in any changes or increased impacts to off site conditions.
- g. The restoration plan shall assure the following:
  - i. As much as practical during the active earth extraction operation, and within one year of the stoppage of active earth extraction, the site shall be reclaimed.
  - ii. The removal operation site shall be graded smooth and restored to a “natural” or prior landform configuration. Cut slopes and soil banks shall not be allowed to remain.
  - iii. The entire area shall be covered with not less than four (4) inches of good, arable topsoil, and shall have a minimum of ten (10) percent organic material except that no greater depth of topsoil or percentage of organic material shall be required than that originally existed on the property prior to commencement of operations.
  - iv. The operation shall establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of the land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the

natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the post-mining land use and to prevent erosion. Numbers and sizes of plantings should be included in the overall submission.

- v. Upon failure of the permit holder, or the permit holder's successors or assigns, to complete the reclamation of the site as required above, the Town may take such actions as may be necessary to complete the work, and may enter onto the property for such purposes. The Town's reasonable cost of completing these requirements shall be a lien on the property and may be foreclosed by the Town in the same manner as provided for the foreclosure of mortgages.
- h. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to an excavation.
- i. Access ways and on-site roads shall be maintained in a dust-free condition. The owner or operator shall take adequate measures within the site to ensure that trucks, exiting the site on roadways, shall not discharge earth materials or debris on public roadways.
- j. The proposed activity shall not have an undue adverse impact on neighboring properties or the character of the area by reason of noise, dust, vibration, traffic hazards, scenic values or natural beauty of the area, historic sites or irreplaceable resources, or creation of a nuisance.
- k. The premises shall be neat and orderly, free from junk, trash or unnecessary debris.
- l. Additional conditions shall be imposed by the Development Review Board as appropriate for the specific site.

### **3. Surety Requirement**

A performance bond, escrow account, or other surety acceptable to the Select Board, may be required to ensure site reclamation upon completion of minor excavation projects.

## **D. Major Earth Extraction**

Any new or extended major earth extraction operation shall be permitted in all zoning districts, except the Village District, subject to conditional use review in accordance with Section 5.2 and findings that the proposed activity meets the following definitions, standards and conditions.

### **1. Application Requirements**

In addition to application requirements under Section 6.2 and 5.1, the applicant shall submit two (2) copies of an acceptable erosion control and site restoration plan to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive, and useful condition. Plans shall also include the following information:

- a. Existing grades and drainage, stockpiles and berms (including typical cross-sections);
- b. Structures, roadways, equipment, materials, fuel storage, water supply, sewage disposal, trees, landscaping, and screening;
- c. Area maps showing the general project location in the Town and the following features within 2,500 feet of the proposed operation: roads (including class 4 roads and legal trails), land uses and principal structures including public resources, designated scenic areas, and historic sites, surface waters, soils, and the location and depth of all water supplies.
- d. Project description, including details of:
  - i. each phase of excavation, stockpiling and the volumes involved, as applicable;
  - ii. operations, including the nature, location and times of extraction, screening, crushing, and trucking: operation of other major equipment on the site, safety measures, dust, sedimentation and erosion controls, water table monitoring and site dewatering, truck routes to be used, as applicable;
  - iii. the anticipated cost of site rehabilitation in accordance with these regulations.

The Development Review Board may reasonably require such additional information as it deems necessary to determine whether the new or extended excavation operation will be located and performed in accordance with these regulations.

## **2. Standards**

In granting approval, the Development Review Board shall consider and impose conditions with respect to the following standards:

- a. The days and hours of operation shall be limited to 8am – 5pm Monday through Friday so as to ensure reasonable quiet and compatibility with other uses in the area.
- b. Isolation Distances and Setbacks
  - i. No part of any extraction area shall be within 300 feet of any of the following uses existing or approved: Any dwelling, private or public water supply or water line, public building, park, or other community or institutional facility.

- ii. No part of any extraction area shall be within 150 feet of the property lines, or within 150 feet of any natural stream or pond.
- iii. Stockpiling of excavated material shall not exceed 35 feet and shall not be within 150 feet of the property lines, or within 150 feet of any natural stream or pond.
- iv. No truck access road to the property shall be within 50 feet of the property lines, except at the connection to the public road.
- v. No stationary processing machinery shall be located within 300 feet of any property line.
- vi. With regard to property line setbacks only, the DRB has the discretion to reduce setback distances if it determines that such a reduction in distance will not have an undue adverse affect on abutting landowners and on the character of the area.

c. Maintenance Buffer

- i. The land within 100 feet of the property line shall be maintained as a buffer or conservation area by the permit holder.
- ii. There shall be no land development on this buffer except for truck access roads.

d. Dust Control

- i. The owner/operator shall implement positive and effective dust control measures, which will meet the requirements in the State of Vermont Air Quality Regulations. This shall apply to all on-site operations as well as to all vehicular traffic leaving the site.

e. Traffic and Noise

- i. The days and hours of operation shall be 8am – 5pm Monday through Friday so as to ensure reasonable quiet and compatibility with other uses in the area.
- ii. No noise shall be permitted which is excessive at the property line or is incompatible with the reasonable use of the surrounding area. Excessive noise shall be considered a sound pressure level that exceeds 65 decibels at the property line on a regular or reoccurring basis.
- iii. The property shall be limited to one truck access to any public right-of-way and shall have a grade of 5% or less. An emergency or second limited use access may be provided.

iv. Access ways and on-site roads shall be maintained in a dust-free condition. The owner or operator shall take adequate measures within the site to ensure that trucks, exiting the site on roadways, shall not discharge earth materials or debris on public roadways.

v. The proposed transport for the operation shall not exceed the carrying capacity of the roadways and any damage to such roadways shall be repaired at the expense of the owner/operator.

vi. The proposed schedule and gross vehicle weight of transport vehicles shall be appropriate for the season of the year, the character of the area where the operation is located, and the neighborhood through which vehicles must pass.

f. Landscaping, Screening and Signs

i. Natural screening shall be provided and maintained so that no stockpiles of excavated material shall be visible from any existing or approved dwelling or public right-of-way within 300 feet as of the filing of the earth extraction application. No stockpile shall exceed 35 feet in height.

ii. The property's access road shall be hidden from view from existing or approved dwellings and public roads by natural topography, vegetated berm or evergreen trees, either existing or to be planted, at least every 10 feet on both sides of the road.

iii. An earthen berm of not less than six (6) feet in height and/or farm fence of not less than fifty-four (54) inches in height shall be maintained around potentially hazardous areas, including but not limited to the excavation site, storage and waste piles and fuel storage areas. Berms that will remain in place for one (1) year or longer shall be planted with grass, shrubs and trees and maintained as a visual and acoustical screen. They shall be designed so that they do not erode into the road or highway right-of-way or onto adjoining property. This provision can be waived if the applicant demonstrates adequate safety and buffering can be accomplished by other means or with conditions present on site.

iv. Signs shall be posted and maintained at frequent intervals around the site indicating danger and presence of the excavation site.

g. Terracing and Contouring

Terracing or contouring shall be used, as appropriate, so as to minimize hazards. In no case shall the slope exceed 20% (meaning 20 feet of vertical rise for every 100 feet of horizontal distance). No vertical face shall exceed in height that permitted by the U.S. Bureau of Mines.

h. Closing-Out the Operation

- i. As much as practical during the active earth extraction operation, and within one year of the stoppage of active earth extraction, the site shall be reclaimed.
- ii. The removal operation site shall be graded smooth and restored to a “natural” or prior landform configuration. Cut slopes and soil banks shall not be allowed to remain. Provisions for restoring the “approximate original contour” of the land shall be made. Approximate original contour means that surface configuration achieved by backfilling and grading of the excavated area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to excavation and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated.
- iii. The entire area shall be covered with not less than four (4) inches of good, arable topsoil, and shall have a minimum of ten (10) percent organic material except that no greater depth of topsoil or percentage of organic material shall be required than that originally existed on the property prior to commencement of operations.
- iv. The operation shall establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of the land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the post-mining land use and to prevent erosion. Numbers and sizes of plantings shall be included in the overall submission.
- v. The reclamation of the site shall be completed so that the land will be left in a safe, attractive and readily usable condition for the types of land uses allowable in the district.
- vi. When earth extraction operations have been completed, then all buildings (other than those shown on the restoration plan), structures (except fences) and equipment shall be entirely removed from the property within one (1) year from the expiration date of the conditional use.
- vii. Upon failure of the permit holder, or the permit holder's successors or assigns, to complete the reclamation of the site as required above, the Town may take such actions as may be necessary to complete the work, and may enter onto the property for such purposes. The Town's reasonable cost of completing these requirements shall be a lien on the property, including the buffer, and may be foreclosed by the Town in the same manner as provided for the foreclosure of mortgages.

i. Surface and ground water

- i. The proposed operation shall not have an undue adverse impact on surface and ground water.
- ii. At all times, the owner or operator shall take adequate measures to ensure that contaminated surface water run-off shall not enter ponds or other areas of open standing water.
- iii. As necessary, ground water quality shall be monitored and maintained on a regular basis in accordance with acceptable monitoring practices.
- iv. If the extraction is wholly or partly from a streambed, it shall be carried out in such a manner that there shall be no obstruction or substantial change in normal flow, and at the conclusion of work in any section, there shall be no increase in erosion or flood hazards.
- v. Removal shall not result in a cover of less than three feet of native, undisturbed material over any water table, such water table elevation to be established at a seasonally high level.

j. Premise and on-site facilities

- i. At all times the premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged.

k. General

- i. In any new operation, the area excavated at any one time shall not exceed five (5) acres (or 217,800 square feet). Smaller areas may be designated if necessary to protect the character of the area where the operation is located.
- ii. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to an excavation.
- iii. The proposed activity shall not have an undue adverse impact on neighboring properties or the character of the area with regard to the following standards:
  - 1. noise, dust, vibration, as defined in Section D.2.c. and D.2.d. above
  - 2. traffic, traffic safety impacts, as defined in Section D.2.d. above.

3. scenic values, visual impact, Visually sensitive areas include but are not limited to ridgelines, mountain tops, vistas, steep slopes, shorelines or riverbanks, large open areas, public resources, or scenic road corridors. In addition, unique areas such as wetlands, waterfalls, and historic areas may be sensitive to aesthetic change. In such cases, visibility studies may be required by the Development Review Board to determine impact on visibility and aesthetic resources.
4. ecological function, natural resources, or
5. creation of a nuisance.

iv. Additional conditions may be imposed by the Development Review Board as appropriate for the specific site.

### 3. Escrow Agreement

a. The owner/operator, prior to commencing excavation, shall designate a bank having an office in the State of Vermont, as escrow agent for the Town and the permit holder, to receive funds on account of the anticipated cost of complying with subsection D.2.g of this Section, after the volume of material approved for excavation is removed. Such amount shall be paid over at least semi-annually, commencing six months from the date of the first excavation, based upon the amount of material removed in the preceding six-month period.

b. The Escrow agreement shall provide:

i. That the fund shall be invested in a savings account or certificate of deposit, at the owner/operators' option.

ii. That all interest shall be payable to the owner/operator.

iii. That the escrow agent shall account quarterly to the Town, and at such other more frequent intervals as the Town may require.

iv. That the fund shall be available to the owner/operator to reimburse it for the cost of complying with subsection D.2.g of this Section, or upon failure of the permit holder to so comply the fund shall be available to the Town to reimburse it for any costs it incurs in closing out the operation.

v. That any remaining amount shall be paid over to the owner/operator

c. If the owner/operator fails to make a payment into the escrow fund, as required herein, and such failure continues for thirty days from due date, then there shall be no excavation of materials until such default is cured. The applicant shall make available to the Town such records as the Town may reasonably request in order for it to determine compliance with this paragraph.

d. The Development Review Board shall re-evaluate, at their discretion, the anticipated cost of compliance with subsection D.2.g of this Section, after public hearing, and the payment to the escrow funds shall be adjusted accordingly.

e. At any time the owner/operator may withdraw any amount which is in the escrow account, upon filing with the Town a bond, issued by a good and sufficient bonding or surety company authorized to do business in Vermont, for the benefit of the Town, in an amount sufficient to cover the cost of implementing Section D.2.g, but not for more than the amount then in the escrow account, and being withdrawn. Similarly, in lieu of any deposit in the escrow account, the owner/operator may file a similar bond in the amount required to be deposited. If a bonding company should become insolvent, go out of business, or lose its right to do business in Vermont, that shall be deemed a default under c. above and shall be remedied by a new bond or deposit before excavation is continued.

### **E. Minor Quarrying**

Any new or extended minor quarry operation shall be permitted in all zoning districts, except the Village District, subject to conditional use review in accordance with Section 5.2 and findings that the proposed activity meets the following definitions, standards and conditions.

#### **1. Application Requirements**

In addition to application requirements under Section 6.2 and 5.1, the applicant shall submit two (2) copies of an acceptable erosion control and site restoration plan to ensure that upon completion of the quarry operation the abandoned site will be left in a safe, attractive, and useful condition. Plans shall also include the following information:

- a. Existing grades and drainage, stockpiles and berms (including typical cross-sections);
- b. Structures, roadways, equipment, materials, fuel storage, water supply, sewage disposal, trees, landscaping, and screening;
- c. Area maps showing the general project location in the Town and the following features within 2,500 feet of the proposed operation: roads (including class 4 roads and legal trails), land uses and principal structures including public resources, designated scenic areas, and historic sites, surface waters, soils, and the location and depth of all water supplies.
- d. Project description, including details of:
  - i. each phase of mining, stockpiling and the volumes involved, as applicable;
  - ii. operations, including the nature, location and times of: blasting, drilling, crushing and operation of other major equipment on the site, safety measures, dust, sedimentation and erosion controls, water table monitoring and site dewatering, truck routes to be used, as applicable;

- iii. the anticipated cost of site rehabilitation in accordance with these regulations.

The Development Review Board may reasonably require such additional information as it deems necessary to determine whether the new or extended quarry operation will be located and performed in accordance with these regulations.

## 2. Standards

In granting approval, the Development Review Board shall consider and impose conditions with respect to the following standards:

- a. The days and hours of operation shall be limited to 8am – 5pm Monday through Friday so as to ensure reasonable quiet and compatibility with other uses in the area.
- b. Isolation Distances and Setbacks
  - i. No part of any quarried area shall be within 500 feet of any of the following uses existing or approved: Any dwelling, private or public water supply or water line, public building, park, or other community or institutional facility.
  - ii. No part of any quarried area shall be within 250 feet of the property lines, or within 250 feet of any natural stream or pond.
  - iii. Stockpiling of quarried material shall not exceed 35 feet and shall not be within 150 feet of the property lines, or within 150 feet of any natural stream or pond.
  - iv. No truck access road to the property shall be within 50 feet of the property lines, except at the connection to the public road.
  - v. No stationary processing machinery shall be located within 300 feet of any property line.
  - vi. With regard to property line setbacks only, the DRB has the discretion to reduce setback distances if it determines that such a reduction in distance will not have an undue adverse affect on abutting landowners and on the character of the area.
- c. Maintenance Buffer
  - i. The land within 100 feet of the property line shall be maintained as a buffer or conservation area by the permit holder.
  - ii. There shall be no land development on this buffer except for truck access roads.

d. Vibration and Dust Control

- i. The vibration level resulting from any blasting or equipment operation shall not exceed 0.5 ips on frequencies of less than 40 HZ, nor 2.0 ips on frequencies of greater than 40 HZ, measured at any property line.
- ii. The owner/operator shall implement positive and effective dust control measures, which will meet the requirements in the State of Vermont Air Quality Regulations. This shall apply to all on-site operations as well as to all vehicular traffic leaving the site.

e. Traffic and Noise

- i. The days and hours of operation shall be 8am – 5pm Monday through Friday so as to ensure reasonable quiet and compatibility with other uses in the area.
- ii. No Noise shall be permitted which is excessive at the property line or is incompatible with the reasonable use of the surrounding area. Excessive noise shall be considered a sound pressure level that exceeds 65 decibels at the property line on a regular or reoccurring basis. Noise levels shall not exceed an instantaneous maximum of 80 decibels at the property line.
- iii. The property shall be limited to one truck access to any public right-of-way and shall have a grade of 5% or less. An emergency or second limited use access may be provided.
- iv. Access ways and on-site roads shall be maintained in a dust-free condition. The owner or operator shall take adequate measures within the site to ensure that trucks, exiting the site on roadways, shall not discharge earth materials or debris on public roadways.
- v. Any proposed transport for the operation shall not exceed the carrying capacity of the roadways and any damage to such roadways shall be repaired at the expense of the owner/operator.
- vi. The proposed schedule and gross vehicle weight of transport vehicles shall be appropriate for the season of the year, the character of the area where the operation is located, and the neighborhood through which vehicles must pass.

f. Landscaping, Screening and Signs

- i. Natural screening shall be provided and maintained so that no stockpiles of excavated material shall be visible from any existing or approved dwelling or public right-of-way within 100 feet as of the filing of the quarry application. No stockpile shall exceed 35 feet in height.
- ii. The property's access road shall be hidden from view from existing or approved dwellings and public roads by natural topography, vegetated berm or evergreen trees, either existing or to be planted, at least every 10 feet on both sides of the road.
- iii. An earthen berm of not less than six (6) feet in height and/or farm fence of not less than fifty-four (54) inches in height, of such a design so as to allow the free flow of wildlife, but to discourage trespassing of humans and farm animals shall be maintained around potentially hazardous areas, including but not limited to the excavation site, storage and waste piles and fuel storage areas. Berms that will remain in place for one (1) year or longer shall be planted with grass, shrubs and trees and maintained as a visual and acoustical screen. They shall be designed so that they do not erode into the road or highway right-of-way or onto adjoining property. This provision can be waived if the applicant demonstrates adequate safety and buffering can be accomplished by other means or with conditions present on site.
- iv. Signs shall be posted and maintained at frequent intervals around the site indicating danger and presence of the quarry site.

g. Terracing and Contouring

Terracing or contouring shall be used, as appropriate, so as to minimize hazards. In no case shall the slope exceed 20% (meaning 20 feet of vertical rise for every 100 feet of horizontal distance). No vertical face shall exceed in height that permitted by the U.S. Bureau of Mines.

h. Closing-Out the Operation

- i. As much as practical during the active quarry operation, and within one year of the stoppage of active quarrying, the site shall be reclaimed.
- ii. The removal operation site shall be graded smooth and restored to a "natural" or prior landform configuration. Cut slopes and soil banks shall not be allowed to remain. Provisions for restoring the "approximate original contour" of the land shall be made. Approximate original contour means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all high walls and spoil piles eliminated.

iii. The entire area shall be covered with not less than four (4) inches of good, arable topsoil, and shall have a minimum of ten (10) percent organic material except that no greater depth of topsoil or percentage of organic material shall be required than that originally existed on the property prior to commencement of operations.

iv. The operation shall establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of the land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the post-mining land use and to prevent erosion. Numbers and sizes of plantings shall be included in the overall submission.

v. The reclamation of the site shall be completed so that the land will be left in a safe, attractive and readily usable condition for the types of land uses allowable in the district.

vi. When quarry operations have been completed, then all buildings (other than those shown on the restoration plan), structures (except fences) and equipment shall be entirely removed from the property within one (1) year from the expiration date of the conditional use.

vii. Upon failure of the permit holder, or the permit holder's successors or assigns, to complete the reclamation of the site as required above, the Town may take such actions as may be necessary to complete the work, and may enter onto the property for such purposes. The Town's reasonable cost of completing these requirements shall be a lien on the property, including the buffer, and may be foreclosed by the Town in the same manner as provided for the foreclosure of mortgages.

i. Surface and Ground Water

i. The proposed operation shall not have an undue adverse impact on surface and ground water.

ii. At all times, the owner or operator shall take adequate measures to ensure that contaminated surface water run-off shall not enter ponds or other areas of open standing water.

iii. Ground water quality shall be monitored and maintained on a regular basis in accordance with acceptable monitoring practices.

iv. If the quarry is wholly or partly from a streambed, it shall be carried out in such a manner that there shall be no obstruction or substantial change in

normal flow, and at the conclusion of work in any section, there shall be no increase in erosion or flood hazards.

v. Removal shall not result in a cover of less than three feet of native, undisturbed material over any water table, such water table elevation to be established at a seasonally high level.

j. Premise and on-site facilities

i. The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged.

k. General

i. In any new operation, the area excavated at any one time shall not exceed one (1) acre (or 43,560 square feet). Smaller areas may be designated if necessary to protect the character of the area where the operation is located.

ii. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to a quarry.

iii. The proposed activity shall not have an undue adverse impact on neighboring properties or the character of the area with regard to the following standards:

1. noise, dust, vibration, as defined in Section E.2.d. and E.2.e. above
2. traffic, traffic safety impacts, as defined in Section E.2.e. above.
3. scenic values, visual impact, Visually sensitive areas include but are not limited to ridgelines, mountain tops, vistas, steep slopes, shorelines or riverbanks, large open areas, public resources, or scenic road corridors. In addition, unique areas such as wetlands, waterfalls, and historic areas may be sensitive to aesthetic change. In such cases, visibility studies may be required by the Development Review Board to determine impact on visibility and aesthetic resources.
4. ecological function, natural resources, or
5. creation of a nuisance.

iv. Additional conditions shall be imposed by the Development Review Board as appropriate for the specific site.

### **3. Escrow Agreement**

a. The owner/operator, prior to commencing excavation, shall designate a bank having an office in the State of Vermont, as escrow agent for the Town and the permit holder,

to receive funds on account of the anticipated cost of complying with subsection E.2.h of this Section, after the volume of material approved for excavation is removed. Such amount shall be paid over at least semi-annually, commencing six months from the date of the first excavation, based upon the amount of material removed in the preceding six-month period.

b. The Escrow agreement shall provide:

i. That the fund shall be invested in a savings account or certificate of deposit, at the owner/operators' option.

ii. That all interest shall be payable to the owner/operator.

iii. That the escrow agent shall account quarterly to the Town, and at such other more frequent intervals as the Town may require.

iv. That the fund shall be available to the owner/operator to reimburse it for the cost of complying with subsection E. 2.h of this Section, or upon failure of the permit holder to so comply the fund shall be available to the Town to reimburse it for any costs it incurs in closing out the operation.

v. That any remaining amount shall be paid over to the owner/operator

c. If the owner/operator fails to make a payment into the escrow fund, as required herein, and such failure continues for thirty days from due date, then there shall be no excavation of materials until such default is cured. The applicant shall make available to the Town such records as the Town may reasonably request in order for it to determine compliance with this paragraph.

d. If applicable, the anticipated cost of compliance with subsection E. 2.h of this Section shall be re-evaluated by the Development Review Board, after public hearing, and the payment to the escrow funds shall be adjusted accordingly.

e. At any time the owner/operator may withdraw any amount which is in the escrow account, upon filing with the Town a bond, issued by a good and sufficient bonding or surety company authorized to do business in Vermont, for the benefit of the Town, in an amount sufficient to cover the cost of implementing Section E. 2.h, but not for more than the amount then in the escrow account, and being withdrawn. Similarly, in lieu of any deposit in the escrow account, the owner/operator may file a similar bond in the amount required to be deposited. If a bonding company should become insolvent, go out of business, or lose it's right to do business in Vermont, that shall be deemed a default under c. above and shall be remedied by a new bond or deposit before excavation is continued.