

ENOSBURGH ZONING BYLAWS

ARTICLE I – TITLE, PURPOSE, AUTHORITY and ENACTMENT

TITLE

This bylaw shall be known, cited, and referred to as the "Enosburgh Zoning Bylaw".

PURPOSE

The purpose of this bylaw is to implement the Enosburgh Town Plan and to carry out the overall goal of that plan which is to "maintain agricultural and scenic resources, protect working farms and managed forests from sprawl and fragmentation of land, and encourage development on a scale appropriate to maintain the rural character of the community." The purpose of this bylaw is also to further the purposes of the Vermont Planning and Development Act, Title 24 V.S.A. Chapter 117 (the Act) to promote the health, safety and general welfare of the inhabitants of Enosburgh, Vermont.

STATUTORY AUTHORIZATION and ENACTMENT

In accordance with the Act, there is hereby adopted and enacted this zoning bylaw for the Town of Enosburgh, Vermont. This bylaw amends, by replacing in their entirety as of the date this bylaw takes effect, all previous zoning bylaws, regulations, or ordinances of the Town of Enosburgh, in particular the "Enosburgh Zoning Bylaws" adopted May 1, 1995.

EFFECTIVE DATE

This bylaw takes effect on (21 days after adoption) and shall be amended only according to the procedures and requirements set out in the Act.

ARTICLE II – APPLICABILITY

Except as otherwise provided in this bylaw, no development may be undertaken or effected except in conformance with this bylaw, and no person shall commence development within the Town of Enosburgh except in conformance with this bylaw.

This bylaw shall not restrict accepted agricultural or farming practices, or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the secretary of agricultural, food and markets or the commissioner of forests, parks, and recreation under sections 1021(f) and 1259(f) of Title 10, and section 4810 of Title 6, respectively, of Vermont Statutes Annotated as from time to time amended.

This bylaw shall not repeal, abrogate or impair any other applicable land use controls (including statutes, regulations, rules, ordinances, permits, easements, deed restrictions, covenants or similar devices). However, the provisions of this bylaw shall be minimum requirements that shall take precedence over any less restrictive such controls.

ARTICLE III – DEFINITIONS

The following definitions shall apply throughout this bylaw unless the context or the Act otherwise requires. Words in the singular include the plural, and words in the present tense include the future tense. The words "may" and "should" are permissive, and the words "shall" and "will" are mandatory.

ACCEPTABLE MANAGEMENT PRACTICES: That combination of conservation measures, structures, activities, prohibitions, procedures, or management practices designed to prevent, reduce or avoid adverse impacts of development on a site or adjoining site's land, soil, water, or waterways, and water bodies.

ACCESSORY USE or STRUCTURE: A use or a structure other than a dwelling that is separate from, but a secondary or subordinate activity or structure related to, a principal use or a principal structure, and that is carried out or used in association with the principal use and is located on the same lot as the principal use or structure.

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ACCESSORY DWELLING UNIT: One dwelling unit, either within an owner occupied single family dwelling or in an accessory building on the same lot, that is: (1) clearly subordinate to the principal single family dwelling; and (2) no more than 30 percent of the existing living area of the single family dwelling in area.

ACT: Title 24, Chapter 117, Vermont Statutes Annotated: The Vermont Municipal and Regional Planning and Development Act as presently enacted or as from time to time amended.

ADMINISTRATOR: The Town Administrative Officer, Zoning Administrator, Town Planning Administrator or other person(s) acting for the Planning Commission and/or the Development Review Board.

AGRICULTURE: Use of land primarily for cultivating the soil and producing crops or raising livestock for the purpose of economic gain, including the sale of such farm crops, horticultural products, livestock or forest products raised on the property, but not including commercial slaughterhouses.

BED AND BREAKFAST LODGING: Providing temporary and short term (less than 30 days) accommodation, without a restaurant, to the public for compensation in a dwelling containing 5 or fewer individual rental units consisting of, at least, a bedroom.

BUILDING: A structure designed, built or used as a shelter for persons, animals or property.

BUILDING ENVELOPE: A three dimensional space within which the principal and accessory structures on a lot are located. A building envelope is delineated laterally on the ground by setbacks or other limits, and vertically by height limits.

BUILDING UNIT: A single unit providing complete, independent facilities for one use.

CAMP: A building, no more than 900 square feet in footprint area, designed, built, or used as temporary, seasonal, or occasional shelter for persons in connection with a recreation activity.

CAMPGROUND: The commercial use of an area of land for the provision of temporary and short term tenting or camping vehicle accommodation.

CAMPING VEHICLE: A camper, trailer, travel trailer, tent trailer, motor home, camper trailer, truck camper, or any other structure, device or conveyance mounted, or designed to be mounted, on wheels, and used, or designed to be used, as temporary, seasonal, or occasional shelter for persons in connection with a recreation activity.

COMMERCIAL USE: The use of an area of land and the structures on it for activities and facilities for the wholesale or retail buying, selling, provision, trading, or exchange of commodities, goods, or services, other than by the Town, state, or federal government.

DEVELOPMENT: Means the construction, reconstruction, replacement, 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.

DRIVEWAY: An open way used to provide access for vehicles, persons, and animals to a road from one lot, or from two residential lots, other than a farm road or a logging road.

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DWELLING: A building designed, built, or used exclusively to contain permanent dwelling units. A camping vehicle, camp, trailer, automobile chassis, tent, school bus, portable, or temporary structure is not a dwelling.

DWELLING, MULTIPLE FAMILY: A single dwelling containing three or more dwelling units.

DWELLING, SINGLE FAMILY: (1) A single dwelling containing one dwelling unit: (2) A state licensed or registered residential care home or group home, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501 located one thousand (1,000) feet or more from another such home: (3) A state licensed or registered family child care home or facility serving no more than 6 full-time children and 4 part-time children as defined in 33 V.S.A. § 4902(3)(A).

DWELLING, TWO FAMILY: A single dwelling containing two dwelling units.

DWELLING UNIT: A single unit providing complete, independent dwelling facilities for one family, including permanent facilities for living, sleeping, eating, cooking, and sanitation.

EASEMENT: A grant by a property owner to the use of land by the public, a corporation, or persons for specific purposes as the construction of utilities, drainage ways and roads.

EXCAVATION AND LAND FILLING: Shall include any commercial or industrial extraction of earth resources. Any breaking of ground which substantially affects adjacent properties such as extraction or movement of earth or rock, or any alteration of existing drainage patterns. Common agricultural tillage, ground care, gardening, and excavations in cemeteries shall be exempt from this bylaw.

FAMILY: One or more persons occupying a single dwelling unit as a single household unit, all members of which are of direct lineal descent or adopted or legally cared for children, or, containing no more than six persons including live-in employees of the household.

FARMING:

According to statute (10 VSA Section 6001 (22)) Farming is defined as:

(22) "Farming" means:

- (A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
- (B) the raising, feeding, or management of livestock, poultry, fish, or bees; or
- (C) the operation of greenhouses; or
- (D) the production of maple syrup; or
- (E) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or
- (F) the on-site production of fuel or power from agricultural products or wastes produced on the farm; or
- (G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

FARM DWELLING COMPLEX: An area of land for residential use on an operating farm containing a single or two family dwelling occupied by the farm operator and farm living quarters.

FARM LIVING QUARTERS: Any dwelling units, including mobile homes, for use by full-time, temporary, or permanent workers engaged in agricultural pursuits.

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FARM STRUCTURE: 2.07 Farm Structure a structure or structures as defined herein that is Used by a person for agricultural production that meets one or more of the following:

- (a) is used in connection with the sale of \$1000 or more of agricultural products in a normal year; or
- (b) is used in connection with the raising, feeding, and management of at east the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying Hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout; or
- (c) is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or
- (d) is on a farm with a business and farm management plan approved by the Commissioner.

FORESTRY: The use of an area of land for the raising and the harvesting of trees for commercial purposes, including accessory uses, temporary structures, and facilities such as logging roads, and portable sawmills.

FRONTAGE: Length of the lot boundary measured along a public or private road or mean high water mark of a public water.

HIGH WATER MARK: The line on the bed and banks of lakes and streams where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

HOME OCCUPATION: The use of a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse effect on the character of the residential area in which the dwelling unit is located and that is carried out in conformance with the provisions of this bylaw.

INTERESTED PERSON: Any of the following:

1. A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by this bylaw, who alleges that this bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case,
2. A person owning or occupying property in the immediate neighborhood of a property that is the subject of a decision or act taken under this bylaw, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the Enosburgh plan or this bylaw,
3. The Town of Enosburgh or any municipality that adjoins it,
4. Any ten voters or persons owning real property within a municipality listed in subsection (3) of this section who, by signed petition to the Development Review Board, allege that any relief requested by a person under this bylaw, if granted, will not be in accord with the policies, purposes or terms of the plan or bylaw of Enosburgh,
5. Any department or administrative subdivision of the state of Vermont owning property or any interest therein within a municipality listed in subdivision (3) of this subsection, and the agency of commerce and community development of the state of Vermont,
6. The Enosburgh Conservation Commission.

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

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

JUNKYARD: The commercial or non-commercial maintenance, operation, or use of an area of land in excess of 200 square feet for the outdoor collection, deposit, storage, processing, disposal, sale or exchange of junk, or for the collection, deposit, wrecking, dismantling, storage, disposal, salvage or sale of four or more junk motor vehicles other than a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

LAND USE/USE OF LAND: The action or state of making land active that consists in its employment, occupation, or improvement, including but not limited to, subdivision, residential, commercial, industrial, recreational, or agricultural/forestry activities, private and public roads, road and stream construction, and drainage construction, or other development.

LIGHT INDUSTRIAL USE: The use of an area of land and the structures on it for activities and facilities for the manufacturing, fabrication, processing, assembly, packaging, treatment, warehousing, and/or storage, of predominantly previously prepared materials and products.

LOT: An area of land owned or controlled, or intended to be owned or controlled, by one person, not divided by any public or private road or right of way over which the public is entitled to pass. Contiguous areas of land described separately in plats, plans, or deeds filed in the town records constitute one lot if owned or controlled by the same person.

LOT SIZE: The total contiguous area of land within the boundaries of a lot.

LOT, CORNER: A lot located at the intersection of two or more public or private roads.

LOT COVERAGE: A measure of intensity of land use that represents the portion of a site that is impervious (i.e. does not absorb water) including, but not limited to, areas covered by buildings or other permanent structures, parking, loading or storage areas, driveways, roads, sidewalks, and any area of concrete asphalt.

MOBILE HOME: A prefabricated dwelling which:

1. is designed for long term and continuous residential occupancy;
2. is designed to be moved on wheels, as a whole or in sections;
3. on arrival at the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure;
4. meets all other criteria and standards established by rule of the state of Vermont for distinguishing mobile homes from other types of dwellings.

MOBILE HOME PARK: An area of land under single or common ownership or control that contains, or is designed, laid out or adapted to accommodate, more than two mobile homes.

MOTOR VEHICLE: Any vehicle propelled or drawn by power other than muscular power.

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NONCONFORMING LOT OR PARCEL: A lot or parcel that does not conform to the dimensional requirements set out in this bylaw, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of this bylaw, including a lot or parcel improperly authorized as a result of error by the administrative officer.

NONCONFORMING STRUCTURE: A structure or part thereof that does not conform to this bylaw, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of this bylaw, including a structure improperly authorized as a result of error by the administrative officer.

NONCONFORMING USE: A use of land or of a structure, that does not conform to this bylaw, but did conform to all applicable laws, ordinances, and regulations prior to the enactment of this bylaw, including a use improperly authorized as a result of error by the administrative officer.

NONCONFORMITY: A nonconforming use, structure, lot, or parcel.

PARKING SPACE: An off-street area of not less than 200 square feet exclusive of loading, access and maneuvering areas, landscaped areas, etc. to be used exclusively as a temporary storage space for one motor vehicle at a time.

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

PLANNED UNIT DEVELOPMENT (PUD): means one or more lots, tracts , or parcels of land to be developed as a single entity the plan for which may propose and authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from by-law 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 open space, or other standards.

PLANNING COMMISSION: The Town of Enosburgh Planning Commission created pursuant to the Act.

PRINCIPAL USE or STRUCTURE: The primary use of land comprising a lot, or the primary building or other structure on the lot where that use is carried out.

RECREATIONAL USE - MIXED: The commercial use of an area of land for recreation activities carried out within a building, or recreation activities carried out using a combination of indoor and outdoor facilities, including structures and roads.

RECREATIONAL USE - OUTDOOR: The commercial use of an area of land for no or low impact outdoor recreation activities without facilities, structures, or roads.

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

RESIDENTIAL USE: The use of land for residential purposes and uses accessory to those purposes, and dwellings and structures accessory to those dwellings.

RESTAURANT: Providing meals to the public, other than those also renting temporary accommodation, for compensation in any structure including a dwelling.

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ROAD, PRIVATE: A road, not publicly owned and maintained, serving three or more residential lots, other than a farm road or a logging road.

ROAD, PUBLIC: A road over which the public has a right to pass, and which the Town or the State or the federal government has the obligation to maintain.

ROOMING AND BOARDING LODGING: Providing accommodation in a dwelling, with or without meals, for five or fewer persons for a fixed period of time for compensation.

SELECT BOARD: The legislative body of the Town of Enosburgh.

SETBACK: The minimum required distance between a structure and a lot boundary, measured horizontally from the feature of the structure that is closest to the boundary.

SETBACK, FRONT: The minimum required distance between a structure and the centerline of the traveled portion of a public or private road, measured horizontally from the feature of the structure that is closest to the road.

SIGN: Any display or representation, used or placed as an announcement, direction or advertisement. The word "placed", for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed, or made visible in any manner whatsoever.

STRUCTURE: An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence six feet or more in height, except a wall or a fence on an operating farm.

STRUCTURE HEIGHT: The vertical distance measured from the finished grade at the lowest point at ground level of a structure to the highest point of that structure.

SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into 2 or more lots, parcels, tracts, sites, plots, units or interests for the purpose of conveyance, transfer, offer for sale, lease or development.

SURFACE WATERS: Water on the earth's surface exposed to the earth's atmosphere including but not limited to rivers, lakes, streams, ponds, creeks, and brooks.

TOURIST LODGING: Providing temporary and short term (less than 30 days) accommodation, without a restaurant, to the public for compensation in a building, other than a dwelling, containing individual rental units consisting of, at least, a bedroom and a bathroom. Bed and Breakfast lodging with more than five individual rental units is tourist lodging. Rooming and Boarding lodging for more than five persons is tourist lodging.

TOWN PLAN; The Town Plan for Enosburgh and any amendment thereto, as defined and adopted under the provisions of the Act.

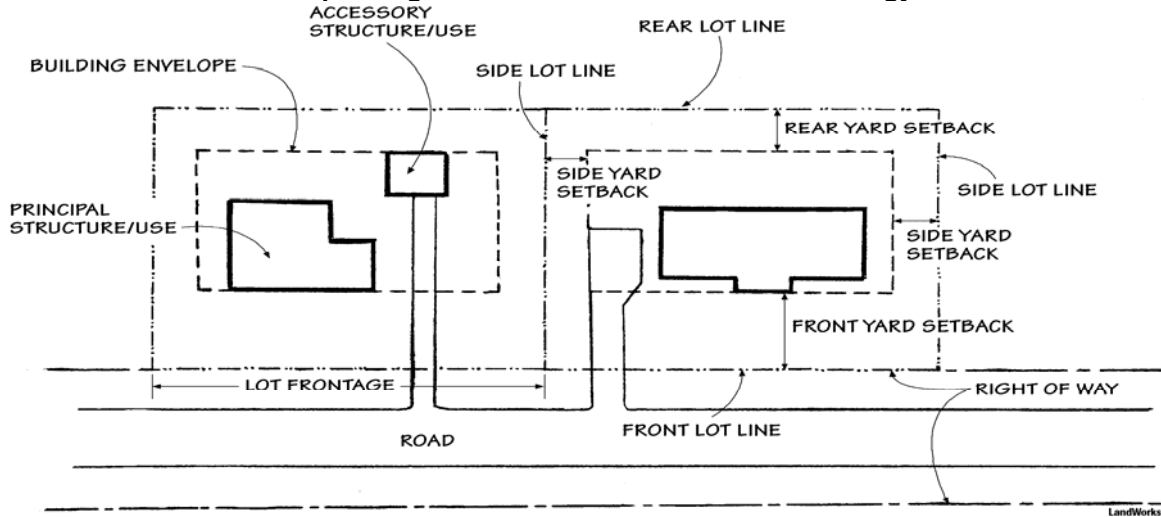
USE: The action or state that consists of employment, occupation, or improvement of any building or other structure, including but not limited to, construction, reconstruction, replacement, conversion, structural alteration, relocation, or enlargement.

WIRELESS TELECOMMUNICATIONS FACILITY: A tower or other support structure, including antennae, that extends 20 feet or more vertically, and related equipment, and base structures, for use primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

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YARD: The minimum required distance between a structure and the closest lot boundary, unoccupied and unobstructed by any portion of a structure from the ground upward.

Example diagram of lot dimensions and terminology:



ARTICLE IV –DEVELOPMENT REVIEW & ZONING PERMITS

SECTION 410 GENERAL

It shall be the responsibility of the landowner (by himself or an authorized agent) to obtain the zoning permits required by this bylaw prior to the commencement of any land development. No use, whether principal or accessory, of land or of any building or other structure is allowed, nor may the use of any land or of any building or other structure be changed, extended, increased, intensified, or enlarged, except in conformity with the provisions of this bylaw, nor, except as otherwise provided, until a zoning permit has been issued by the Administrative Officer and site plan or conditional use approval, or both, by the Development Review Board has been obtained.

No building or other structure, whether principal or accessory, is allowed, nor may the construction, reconstruction, replacement, conversion, structural alteration, relocation, or enlargement of any building or other structure be commenced, except in conformity with the provisions of this bylaw, nor, except as otherwise provided, until a zoning permit has been issued by the Administrative Officer and site plan or conditional use approval, or both, by the Development Review Board has been obtained.

A limit of 15 new single family dwelling units per calendar year is hereby established for the Town of Enosburgh. Unused annual permits shall be added to the following calendar year. The following types of housing, PUD projects, Farm Labor Housing, and Accessory Dwelling Units, are exempt from the 15 dwelling unit permit cap. The number of dwelling units may be revised with the development of a Growth management Plan. Allocation of these units will be done in a fair and equitable manner by a policy as established in these by-laws. (see ADDENDUM #1)

The uses and the buildings and other structures that are allowed are either “permitted” or “conditional”:

- a. Allowed uses and buildings and other structures that are “permitted” require a zoning permit.
- b. Allowed uses and buildings and other structures that are “conditional” require review and approval by the Development Review Board under Section * of this bylaw, and a zoning permit.

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c. Whether “permitted” or “conditional”, an allowed use may require site plan review and approval by the Development Review Board under Section 470 of this bylaw.

The classes and types of uses and structures allowed in each zoning district, and whether they are “permitted” or “conditional” in that district, are set out in the tables in ARTICLE 530-560 of this bylaw.

The requirements in each zoning district with respect to bulk, dimensions, height, area, yards, and density, are also set out in ARTICLE 530-560 of this bylaw.

It shall be the responsibility of the property owner to obtain the zoning permits and approvals required by this bylaw.

SECTION 420 EXEMPTIONS

No zoning permit or approval by the Development Review Board under this bylaw shall be required for the following activities:

(1) Accepted agricultural and best management practices (AAPs and BMPs), including farm structures, as defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act. Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Administrative Officer prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

(2) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act.

(3) Power generation and transmission facilities, which are regulated by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Town Plan.

(4) 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 this bylaw are mixed recreational uses.

(5) Subdivisions of land that require subdivision approval under the Town of Enosburgh Subdivision Regulations.

(6) Normal maintenance and repair of an existing structure which do not result in exterior alterations or expansion or a change of use.

(7) Interior alterations or repairs to a structure that do not result in exterior alterations or expansion or a change in use.

(8) Exterior alterations to structures that do not result in any change to the footprint or height of the structure or a change in use.

(9) Residential entry stairs (excluding decks and porches), handicap access ramps, walkways, and fences or walls less than 6 feet in height which do not extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.

(10) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use.

(11) Outdoor recreational trails (e.g., walking, hiking, cross-country skiing and snow mobile trails) which do not require the installation of structures or parking areas.

(12) Small accessory buildings associated with residential uses that are less than 80 square feet of floor area and less than 10 feet in height, and are not located within required setback areas.

(13) Signs, approved in accordance with Section 720, which are not located in a designated design review district.

(14) Garage sales, yard sales, auctions, or similar activities that do not exceed 3 consecutive days, nor more than 12 total days in any calendar year.

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SECTION 430 APPLICATION PROCEDURE

Application Requirement. An application for a zoning permit or for an approval by the Development Review Board shall be made on form(s) provided by the Town, and filed with the Administrative Officer. Required application fees, as set by the Select Board, shall be submitted with each application at the time of filing. The following additional information will be required as applicable:

For Permitted Uses. Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:

- (1) the dimensions of the lot, including existing property boundaries;
- (2) the location, footprint and height of existing and proposed structures or additions;
- (3) the location of existing and proposed accesses (curb cuts), driveways and parking areas;
- (4) the location of existing and proposed easements and rights-of-way;
- (5) existing and required setbacks from property boundaries, road rights-of-way, surface waters and wetlands;
- (6) the location of existing and proposed water and wastewater systems; and
- (7) other such information as required by the Administrative Officer to determine conformance with this bylaw.

For Uses Subject to Conditional Use and/or Site Plan Review. For development requiring one or more approvals from the Development Review Board prior to the issuance of a zoning permit, application for such approvals and required application fees shall be submitted concurrently with the application for a zoning permit for referral to the Development Review Board.

For Flood Hazard Area Review. Any application for development within the Flood Hazard Area 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.

SECTION 440 ISSUANCE

A zoning permit shall be issued by the Administrative Officer only in accordance with the Act and the following provisions:

- a. Within 30 days of receipt of a complete application, including all application materials and required fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board and/or the state for consideration. In accordance with the Act, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- b. No zoning permit shall be issued by the Administrative Officer for any use or structure that requires the approval of the Development Review Board or the Select Board until such approval has been obtained. 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.
- c. If public notice has been issued by the Select Board for their first public hearing on a proposed amendment to this bylaw, for a period of 150 days following that notice the Administrative Officer and the Development Review Board shall review any new application filed for compliance with both the proposed amendment and this bylaw. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period, or if the proposed bylaw or amendment is rejected, the application shall be reviewed under this bylaw.

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- d. A zoning permit shall include a statement of the time within which appeals may be taken under Section 840; and shall require posting of a notice of permit, on a form prescribed by the Town, within view of the nearest public right-of-way until the time for appeal has expired.
- e. The Administrative Officer, within 3 days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the Town Clerk's Office for a period of 15 days from the date of issuance.
- f. Any zoning permit or approval issued based on material inaccuracies or misrepresentations in an application or in any supporting documentation to an application shall be null and void; and any development activity commenced under such permit shall constitute a violation of this bylaw.

SECTION 450 EFFECTIVE DATE

No zoning permit shall take effect until the time for appeal under Section * has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.

Zoning permits and associated approvals shall remain in effect for 1 year from the date of issuance, unless the permit and associated approvals specify otherwise. Development authorized by the permit and associated approvals must be commenced within this 1 year period. The Administrative Officer may administratively extend a permit and associated approvals for an additional period not to exceed 1 year upon finding that there was reasonable cause for delay in the commencement of the development.

SECTION 455 INITIATION OF CONSTRUCTION

Building permits issued on sites which require potable water and wastewater infrastructure must attain Vermont State permits as issued under 10 V.S.A., prior to the start of construction. No construction can take place until copies of the State permits have been filed with the administrative officer for the Town of Enosburgh.

SECTION 460 REVIEW OF CONDITIONAL USES

(A) Purpose

Conditional uses are uses of land or of structures that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. As a consequence, they require special review in which conditions may be imposed to insure compatibility. Pursuant to the Act, uses listed as conditional uses in any zoning district may be allowed with the approval of the

Development Review Board after public notice and public hearing, but only if they meet general and specific standards and if the Development Review Board determines that they conform to such standards.

(B) Applicability

Any property owner holding title to the land for which a conditional use is proposed may apply for a conditional use approval. In addition, any person who has written permission from a property owner or any public entity having the power to obtain title to a property through condemnation may apply for a conditional use approval of the proposed use of the property.

(C) Submittal Materials

The applicant for conditional use approval shall submit a conditional use application and two copies of a site plan, which shall include the following information:

1. Name and address of the applicant and the owners of all properties adjoining the property subject to development, without regard to rights of way;
2. Name and address of person or firm preparing the plan and map;
3. Scale of map, north arrow, and date prepared;

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4. Features of the existing site including lot size(s), boundaries, and dimensions, contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions, and significant natural features including but not limited to wetlands, woodlands, steep slopes or flood hazard areas, property and zoning boundaries, existing structures and access points to roads and adjacent properties;
5. Proposed improvements including structures, parking areas, access points, signs, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, exterior lighting, screening and site grading. Building information, including elevations and floor plans may also be required;
6. Evidence that an adequate water supply in terms of quantity, quality and dependability, for the use is available;
7. Evidence that an adequate means of wastewater disposal is available;
8. Statement as to potential impact of proposed uses of public services and infrastructure
9. Detailed specifications of the planting and landscaping materials to be used.
10. Construction sequence and time schedule for completion for buildings, parking spaces, and landscaped areas of the entire development.
11. Estimate of daily and peak hour traffic generation.
12. Any other information that the Development Review Board may reasonably require, including traffic studies and a soils report obtained from the Regional Planning Commission or other local agency, or performed by a professional soils engineer or geologist, when appropriate, to delineate areas of the most productive agricultural soils.

(D) Decision

Development subject to conditional use approval shall be reviewed by the Development Review Board based on documentation provided by the applicants, testimony and evidence by interested parties and recommendations by other municipal departments. The Development Review Board shall make findings of fact and conclusions of law that the development will comply with the criteria in subsection (E) below and not have any undue adverse effect on:

- (1) the capacity of existing or planned community facilities or services;
- (2) the character of the area affected;
- (3) traffic on roads or highways in the vicinity;
- (4) bylaws in effect;
- (5) utilization of renewable energy resources.

Character of the Area Affected/Neighborhood Considerations

When considering the character of the area affected, the impact on the character of the neighborhood shall be considered. Neighborhood means in the same area; nearby; the state or quality of being neighbors; including but not limited to the area within sight and/or sound. Character of a neighborhood refers to the distinctive traits, qualities or attributes; its appearance and essential nature, pattern of uses, and sense of community; the factors which give it identity.

A goal of the Town Plan is to “conserve and protect the vitality and quality of existing neighborhoods.” The existence of one conditional use in a residential neighborhood will not necessarily be interpreted as justification for another similar conditional use to be located there.

When considering the character of the neighborhood or area, the Development Review

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Board should consider the following:

- (1) existing neighborhood uses, types of buildings, noise and traffic;**
- (2) Town Plan objectives - planned future neighborhoods, and neighborhood character enhancement;**
- (3) historic buildings & features, uniformity or mix of uses & buildings, mass & spacing of buildings, scenic views, aesthetics, open space, agricultural lands and important natural features;**
- (4) privacy, security, identity, sense of community and cohesion.**

(E) Conditional Use Specific Review Standards

In order to find that the development will satisfy the above criteria, the Development Review Board shall specifically find, where applicable, that the proposed project will:

- (1) have sufficient water and sewage available for its needs and shall not result in an unreasonable burden on the Town's present or planned water or sewer systems;**
- (2) have adequate traffic access, circulation and parking, and shall not cause unreasonable traffic congestion or unsafe conditions with respect to pedestrian or vehicular traffic or other transportation facilities;**
- (3) not cause an unreasonable burden on the ability of the Town or School districts to provide educational services;**
- (4) not place an unreasonable burden upon the ability of the Town to provide services, including but not limited to Fire, Police, Ambulance, Road Maintenance and Recreation;**
- (5) not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, or cultural and historic sites; or important environmental resources, wildlife habitat, wetlands, streams, rivers and ponds, or rare or irreplaceable natural areas identified in the Enosburgh Town Plan;**
- (6) be designed to retain the maximum possible area of land for productive agricultural use, and be compatible with the Enosburgh Town Plan's policies regarding agricultural use;**
- (7) not have an undue adverse effect on the present and projected housing needs of the Town in terms of amount, type, affordability and location;**
- (8) be in conformance with all other policies identified in the Town Plan; and**
- (9) comply with all performance standards and other specific requirements of this bylaw.**

(F) The Development Review Board may request additional information that it deems necessary, and impose appropriate conditions and safeguards to meet the criteria and standards in this section. The applicant shall have the burden of proof that the project meets all criteria.

G) If the Development Review Board determines that the general standards and criteria set forth above have not been met, it shall deny the application.

(H) The Development Review Board may also require that the applicant file a letter of credit (or other security of a type approved by the Selectmen) in an amount specified by the Development Review Board sufficient to secure completion by the applicant of required landscaping and other site improvements and work in the public right-of-way, and maintenance for a period of up to two years after completion.

Any change from one conditional use to another, or any alteration, expansion, or enlargement of an existing use that either 1) was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of this by-law and also conforms with this by-law or 2) is a conditional use approved under this law are subject to review by the DRB.

SECTION 470 SITE PLAN APPROVAL

In any zoning district, uses other than forestry and agriculture and single and two family dwellings on single lots shall be subject to site plan review by the Development Review

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Board. In reviewing site plans the Development Review Board shall use the Performance Standards in Section 640 as a guide for decision making and may impose appropriate conditions and safeguards with respect to the adequacy of pedestrian and vehicular access and circulation, parking, landscaping, screening, utilization of renewable energy resources and other similar site factors.

The applicant for site plan approval shall submit a site plan application and two copies of a site plan, which shall include the following information:

1. Name and address of the applicant and the owners of all properties adjoining the property subject to development, without regard to rights of way.
2. Name and address of person or firm preparing the plan and map.
3. Scale of map, north arrow, and date prepared.
4. Features of the existing site including lot size(s), boundaries, and dimensions, contours, structures, large trees, streets, utility easements, rights of way, land use and deed restrictions, and significant natural features including but not limited to wetlands, woodlands, steep slopes or flood hazard areas, property and zoning boundaries, existing structures and access points to roads and adjacent properties.
5. Proposed improvements including structures, parking areas, access points, signs, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, exterior lighting, screening and site grading. Building information, including elevations and floor plans may also be required.
6. Detailed specifications of the planting and landscaping materials to be used.
7. Construction sequence and time schedule for completion for buildings, parking spaces, and landscaped areas of the entire development.
8. Estimate of daily and peak hour traffic generation.
9. Any other information that the Development Review Board may reasonably require, including traffic studies.

General Standards: In reviewing a site plan, the Development Review Board may consider and impose appropriate safeguards and conditions with respect to the adequacy of parking, traffic access and safety, circulation for pedestrians and vehicles, the size, location, and design of signs, exterior lighting, landscaping and screening, and the protection of the utilization of renewable energy resources, and other matters contained in this Section. The Development Review Board shall consider the following standards and conditions in reviewing the site plan:

1) Access Requirements

- a) Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency.
- b) The Development Review Board may require shared access to adjoining properties, or may limit access to the property to a side street or secondary road.
- c) Where traffic access is required to only a portion of the land, the Development Review Board may require sharing that access with future uses of the remainder of the parcel.
- d) In all districts, curb cuts onto Town roads and state highways shall be strictly in accordance with Vermont Agency of Transportation Standards for Residential and Commercial Drives, Standard B-71 and as approved by the Select Board or the Vermont Agency of Transportation.
- e) All roads to be taken over by the Town shall be constructed to meet the Town of Enosburgh Road Standards.
- f) Roads shall be constructed logically in relation to topography so as to produce safe intersections, grades and alignments, and adequate drainage.
- g) Wherever possible, roads shall be laid out to coordinate with existing and future appropriate development of adjacent tracts, to use 3-way and 4-way intersections, and

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to avoid cul de sacs.

- h) The Development Review Board may require that the developer provide a suitable performance bond with a term not to exceed three years, to guarantee the completion of landscaping or public improvements.

2) Adequacy of Circulation, Parking, and Loading Facilities

- a) Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
- b) Parking areas may be required to be landscaped or screened from adjacent uses and from the roads in the vicinity.
- c) Parking will be prohibited within the front yard setback area where alternate space for parking is available elsewhere on the lot.
- d) Permeable surfaces may be required for proposed parking areas to limit storm water runoff.
- e) Relocation or redesign of parking areas may be required to limit runoff and control erosion.
- f) A safe and attractive pedestrian environment shall be provided as appropriate to the use.
- g) The Development Review Board may require provisions for pedestrian trails, walkways and sidewalks along waterways or other natural features to connect with similar present or anticipated trails on adjacent properties.
- h) The Development Review Board shall determine the size and location of any parking area.
- i) Provision shall be made for efficient snow and refuse removal.

3) Adequacy of Landscaping and Screening

- a) Plantings shall be chosen to fit the specific characteristics and design of the site, be suited to the climate of the area, and shall be installed and maintained in conformity with the standards set out in the Town of Enosburgh Planting Standards as adopted, from time to time, by the Development Review Board in consultation with the Conservation Commission of the Town of Enosburgh. (see addendum 2)
- b) In determining the amount and type of plantings to be required, the Development Review Board shall take into account at least the following:
 - 1) Existing trees, shrubs, evergreens, and other vegetation to be preserved on the site;
 - 2) The visibility of incompatible or unsightly areas from roads and/or adjacent properties;
 - 3) The land form and overall landscaping plan for the development;
 - 4) Other factors which, in the judgment of the Development Review Board, affect the safety and appearance of the development.
- c) Adequate setbacks and site grading may be required to ensure that the plantings are not adversely affected by traffic and road salt.
- d) Street trees may be required along roads.
- e) Landscaping shall be installed with a time frame established by the Development Review Board.
- f) Where new commercial uses are adjacent to a lot used for residential purposes, a strip of not less than 10 feet in width may be required as a buffer and shall be suitably landscaped with dense evergreens or other suitable planting.
- g) All new parking lots may be required to be screened by a strip not less than 10 feet in width, and if necessary, be planted with dense evergreens or other planting. If the Development Review Board determines that plantings are not appropriate, it may approve a suitable fence.
- h) Plantings when installed are to be of a size and shape approved by the Development Review Board. If the Development Review Board determines that the landscaping will take several years to accomplish the desired screening/buffering effect, it may require

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- that fencing be installed and maintained during the interim.
- i) The Development Review Board may require the cost of planting to equal up to 3 percent of the estimated total costs of the development.
 - j) The owner or developer may be required to provide a suitable performance and payment bond or other form of security to guarantee the performance and payment and completion of all planting required pursuant to this Section, which bond or security shall also guarantee plantings for a period of two years.
 - k) To control erosion, the site plan shall meet the following standards:
 - 1) The development plan shall fit the topographic, soil, and vegetation characteristics of the site with a minimum of clearing and grading.
 - 2) No clearing or grading shall take place within streambank setback areas.
 - 3) Existing natural drainage patterns shall be preserved wherever possible.
 - 4) The sequence of construction activities shall be designed so that the smallest area possible is disturbed at any one time. Only areas where active construction is taking place should be exposed. All other areas should be protected by vegetative and structural control measures.
 - 5) Seed and mulch shall be applied as soon as possible to disturbed soils.
 - 6) Disturbance should be avoided as much as possible between October 15 and May 1.
 - l) All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated. Spotlights are generally not permitted. High Pressure Sodium lamps are not allowed unless used as an addition to an existing lighting scheme.
- The Development Review Board may prohibit fixtures that cause excessive glare within the property or on adjoining properties. They may limit or adjust the number, intensity, and location of fixtures to provide for even treatment of lighting, reduce impacts on the night sky, and to ensure limited impact on surrounding properties.

SECTION 480 VARIANCES Variance Criteria

The Development Review Board shall hear and decide requests for variances as required by the Act and appeal procedures under Section 84. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of this bylaw and the Town Plan currently in effect. 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 written decision:

- (1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of this bylaw in the neighborhood or district in which the property is located;
- (2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this bylaw and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) The unnecessary hardship has not been created by the appellant;
- (4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
- (5) The variance, if authorized, will represent the minimum that will afford relief and will

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represent the least deviation possible from this bylaw and from the Town Plan.

Renewable Energy Structures. Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with the Act, the Board may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

- (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with this bylaw;
- (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, nor be detrimental to the public welfare; and
- (4) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from this bylaw and from the Town Plan.

Variations within the Flood Hazard Area. In addition to requirements under Subsection A,1-5, variations for development within the Flood Hazard Overlay District shall be granted by the Board only:

- (1) in accordance with the Act and the criteria for granting variations 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
- (3) upon determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of this bylaw and the Town Plan currently in effect.

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SECTION 490 CERTIFICATE OF OCCUPANCY

In accordance with the Act, a certificate of occupancy issued by the Administrative Officer shall be required prior to the use or occupancy of any land or structure, or part thereof, for which a zoning permit has been issued.

- (1) An application for a certificate of occupancy shall be made to the Administrative Officer prior to the use or occupancy of the land or structure.
- (2) A certificate of occupancy shall not be issued until all necessary approvals and permits required by this bylaw have been obtained for the project, and the Administrative Officer determines that the project has been fully completed in conformance with all such approvals and permits.
- (3) Within 30 days of receipt of the application for a certificate of occupancy, the Administrative Officer may inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals, including all applicable permit conditions. If the Administrative Officer fails to either grant or deny the certificate of occupancy within 30 days of the submission of an application, the certificate shall be deemed issued on the 31st day. Certificate of compliance shall be posted (see posting requirements, page 12)

ARTICLE V – ZONING DISTRICTS, ALLOWED USES and STRUCTURES, DIMENSIONAL REQUIREMENTS

ZONING DISTRICT OBJECTIVES, ALLOWED USES and STRUCTURES, & DIMENSIONAL REQUIREMENTS

The classes and types of uses and structures allowed in each zoning district, and whether they are “permitted” or “conditional” in that district, are set out in the tables in this section of this bylaw.

The requirements in each zoning district with respect to bulk, dimensions, height, area, yards, and density, are also set out in this section of this bylaw.

SECTION 510 ZONING DISTRICTS & OFFICIAL ZONING MAPS

For the purposes of this bylaw, the Town is divided into a number of zoning districts specifying classes and types of uses and of buildings and other structures that are allowed in each district as either “permitted” or “conditional”. “Permitted” uses are uses allowed in a given zoning district without special review because they are considered compatible with the intent of the district. However, the buildings or structures that contain such uses, and the site development necessary for their establishment, must meet the development regulations and plan review requirements established in these bylaws. “Conditional” uses are land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. As a consequence, they require special review in which conditions may be imposed to insure compatibility, and conditional use approval from the DEVELOPMENT REVIEW BOARD must be obtained before a conditional use is established. Conditional uses may also be denied if it is not possible to mitigate adverse impacts. Uses not allowed are land uses that cannot be established in a given zoning district because they are considered incompatible with the intent of the district.

The purpose and intent of this division of the Town into a number of zoning districts specifying classes and types of uses of land and of buildings and other structures that are allowed, and of dividing those classes and types between “permitted” and “conditional” is

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to ensure compatibility of land uses and promote efficient and economical use of land in development projects, to prevent development of areas subject to environmental hazards and constraints, and to encourage development projects that are functional and protect the Town's agricultural lands, natural resources, and scenic beauty.

The zoning districts have been divided into two categories, basic districts and overlay districts, both of which are considered zoning districts for the purposes of this bylaw.

The zoning districts are:

DISTRICT NAME	ABBREVIATION
Village of Enosburg Falls	EF
Agricultural	A
Rural Residential	RR
Conservation	CON
Wellhead Protection	WHP
Natural Resource Overlay	NRO
Wetland Overlay	WO
Flood Hazard Overlay	FHO

The locations of the Village of Enosburg Falls, Agricultural, Rural Residential, Conservation, and Wellhead Protection zoning districts are shown on the Official Zoning Map, which is adopted by reference and declared to be part of this bylaw, and which shall be the final authority as to the zoning status of all land and water areas in the Town. The location of the Natural Resource Overlay zoning district is determined by slopes, elevation, specific wildlife habitat areas, and surface waters as found in published or adopted research data.

The location of the Wetland Overlay zoning district is shown on the Enosburgh Wetland Map As prepared by Arrowwood Environmental in Open Space and Natural Resources Assessment, Enosburgh, Vermont. The location of the Flood Hazard Overlay zoning district are those areas within the areas of 100-year flood (special flood hazard areas – Zone A) shown on the National Flood Insurance Program Flood Insurance Rate Maps (FIRM) of the Town of Enosburgh effective January 2, 1981 as revised. The said FIRM are incorporated herein by reference to form part of this bylaw.

The signature of the Planning Commission Chairperson and the Selectmen, attested by the Town Clerk, shall identify the Official Zoning Map, and it shall be located in the Town Clerk's Office. No changes of any nature shall be made on the Official Zoning Map except in conformance with the zoning amendment procedures and requirements set forth in Sections 4441 and 4442 of the Act.

Where a zoning district boundary divides a lot, 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 zoning district boundary into the remaining portion of the lot.

Any interpretation of zoning district boundaries by the Administrative Officer may be appealed to the DEVELOPMENT REVIEW BOARD.

SECTION 520 VILLAGE OF ENOSBURG FALLS DISTRICT

Objective: To designate a growth center for the town of Enosburgh. The village of Enosburgh Falls has developed a separate Village Plan and Village By-laws, which will be referred to for all regulations within the village limits.

SECTION 530 AGRICULTURE DISTRICT

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Objective: To protect the long term viability of productive farmland in the Town of Enosburgh for agriculture use by 1) protecting prime agriculture soils as mapped by the U.S. Natural Resources Conservation Service (NRCS), 2) minimizing; the fragmentation of productive farmland; and the adverse effects of development of farmland operations. Other uses may be conditionally allowed, including residential use at a low density.

Allowable Principle and Accessory Uses

All allowable uses outlined below are required to obtain a zoning permit and site plan and/or conditional use approval, unless otherwise indicated below or as provided in these by-laws

- Non-agricultural development in this district including single family dwellings, other principle structures, accessory structures and parking areas must sited:**
- a. On the least fertile soils to avoid Vermont State prime agricultural soils:
 - b. On or at field-woodland edges to minimize the fragmentation of productive farmland, adverse impacts to farmland operation, and adverse visual effects to the scenic qualities of the site.
 - c. No more than 50% of the land in agricultural production on a parcel as shown by the Town Agricultural Overlay Map and/or state orthophotos, may be developed.
 - d. To minimize the fragmentation of productive farmland, proposed access roads, driveways and utility corridors in this district, to the extent feasible shall: share right of ways, avoid crossing open farm fields, follow existing linear features such as utility corridors, farm roads, field edges, tree lines, stone walls, and or fence lines.

The Development Review Board may:

- a. limit the extent of clearing and disturbance, including the removal of existing vegetation for development other than agriculture or Forestry
- b. require fencing, screening, and /or vegetative buffer zones between non-agricultural and existing agricultural operations; and/or
- c. require the submission of environmental, agricultural, or visual impact assessments for review and approval.+

Permitted

Agriculture and agriculture Structures
 Forestry
 Conservation
 Outdoor recreation (no roads or structures)
 Single family dwelling
 Accessory dwelling
 Home Occupation

Conditional

Multi-family dwelling
 Camps
 Campgrounds
 Excavating and Landfilling
 Light Industry
 Public Service or Utility
 Wind Turbines
 Accessory structure

DIMENSIONAL REQUIREMENTS

Residential Use

Agricultural Industrial Use

	1 Acre	5 Acre
Lot Size, Minimum:	200 Feet	200 Feet
Frontage, Minimum:	25 Feet	50 Feet(b)
Side Yard Setback, Minimum:	15 feet	50 feet(b)
Rear Yard Setback, Minimum:	40Feet	75 feet
Front Yard Setback, Minimum:	(a)	(a)
Lot Width, Minimum:	35 ft.	35 ft.
Principal Building Height, Max.:		

(a) Minimum lot width shall never be less than 100 feet or one half of the lot depth,

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whichever is greater, except where expressly permitted by the Planning Commission or Board of Adjustment.

(b) For industrial lots abutting any residential use, the minimum side and rear yard setbacks shall be 100 feet from an adjoining property.

SECTION 540 RURAL RESIDENTIAL DISTRICT

Objective: To protect those areas which are used for agriculture but to allow, according to the requirements of Section 306 Conditional Use Approval, for uses other than agriculture and Forestry, including residential and compatible uses, at a density these areas can support in accordance with the Town Plan.

Allowable Principle and Accessory Uses

All allowable uses outlined below are required to obtain a zoning permit and site plan and/or conditional use approval, unless otherwise indicated below or as provided in these by-laws.

*No permit is required for uses and structures that conform to the requirements and definitions herein.

<p>Permitted</p> <p>Planned Unit Development (Residential)</p> <p>Single Family Dwelling</p> <p>Temporary Uses and Structures</p> <p>5)</p> <p>*Daycare facilities or group care home (8 or less)</p> <p>*Camps</p> <p>*Home Occupations</p> <p>*Accessory Dwelling/Use/Structure</p> <p>*Agriculture and Agricultural Structures</p> <p>*Forestry</p> <p>Utility</p> <p>*Conservation</p> <p>*Outdoor Recreation (no structures or roads)</p> <p>* Wind Turbines (1, less than 120 ft. tall, <100KW)</p>	<p>Conditional</p> <p>Planned Unit Development(non-resid.)</p> <p>Multi Family Dwelling</p> <p>Daycare (Section 4412 subsection</p> <p>Campgrounds</p> <p>Mobile Home Park</p> <p>Excavation and Landfilling</p> <p>Indoor and Outdoor Recreation</p> <p>Essential public Service, Facility,</p> <p>Light Industry</p> <p>Community facilities</p> <p>Commercial facilities</p> <p>Lodging Establishments</p> <p>Group home (9 or more)</p> <p>Nursing Home (community care)</p> <p>Wind turbines</p> <p>Commercial telecommunications</p>
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DIMENSIONAL REQUIREMENTS

Residential Use

Commercial & Industrial Use

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Lot Size, Minimum:	1 Acre	5 Acre
Frontage, Minimum:	200 Feet	200 Feet
Side Yard Setback, Minimum:	25 Feet	50 Feet(b)
Rear Yard Setback, Minimum:	15 feet	50 feet(b)
Front Yard Setback, Minimum:	40 Feet	75 Feet(b)
Lot Width, Minimum:	(a)	(a)
Principal Building Height, Max.:	35 ft.	35 ft.

(a) Minimum lot width shall never be less than 100 feet or one half of the lot depth, whichever is greater, except where expressly permitted by the Planning Commission or Board of Adjustment.

(b) For industrial lots abutting any residential use, the minimum side and rear yard setbacks shall be 100 feet from an adjoining property.

SECTION 550 WELLHEAD PROTECTION DISTRICT

Objective: To protect the source of water for the East Berkshire Water COOP, a 97 acre area around a spring off the Woodward Neighborhood Road in the northeast corner of Enosburgh, which has been designated as a "Wellhead protection Area" by the State of Vermont. This district also includes an area in Northwest Enosburg which is a water recharge area for the village of Enosburg Falls.

Allowable Principle and Accessory Uses

All allowable uses outlined below are required to obtain a zoning permit and site plan and/or conditional use approval, unless otherwise indicated below or as provided in these by-laws.

***No permit is required for uses and structures that conform to the requirements and definitions herein.**

PERMITTED

- *Forestry
- *Outdoor Recreation (no structures or roads)
- Home Occupation
- *Conservation
- *Wildlife Habitat Management
- Single family dwelling
- Accessory Dwelling

CONDITIONAL

- Agricultural Farming and Farm Structures
- Outdoor Recreation (structures and roads)
- Camps
- Accessory Uses Structures
- Temporary Structures

DIMENSIONAL REQUIREMENTS

Lot Size:	15 Acres
Frontage:	300 Feet^(a)
Side & Rear Yard Setback, Minimum:	75 Feet
Front Yard Setback, Minimum:	50 Feet
Principal Building Height, Maximum:	35 ft.

(a) Minimum lot width shall never be less than 300 feet or one half of the lot depth, whichever is greater, except where expressly permitted by the Planning Commission or Board of Adjustment.

Copies of all permit applications will be sent to the State Health Department for comment prior to final approval in order to assure protection of the Berkshire Water Coop water supply and the Enosburg Falls village water recharge area.

SECTION 560 CONSERVATION DISTRICT

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Objective: To protect pristine and sensitive areas of the Town, that are primarily used for forestry and outdoor recreation, from the adverse effects of development and growth but to allow, according to the requirements of Section 306 Conditional Use Approval, for uses other than forestry, including camps and other compatible recreation uses, at a density these areas can support in accordance with the Town Plan. The Conservation District is identified by all areas that are at an elevation of 1,500 feet or greater.

Allowable Principle and Accessory Uses

All allowable uses outlined below are required to obtain a zoning permit and site plan and/or conditional use approval. Unless as provided in these by-laws.

*No permit is required for uses and structures that conform to the requirements and definitions provided herein.

PERMITTED

- *Forestry
- *Outdoor Recreation (no structures or roads)
- *Accessory Uses
- *Conservation
- *Wildlife Habitat Management

CONDITIONAL

- Agricultural Farming and Farm Structures
- Outdoor Recreation (structures and roads)
- Camps
- Accessory Structures
- Temporary Structures

DIMENSIONAL REQUIREMENTS

Lot Size:	25 Acres
Frontage:	300 Feet ^(a)
Side & Rear Yard Setback, Minimum:	75 Feet
Front Yard Setback, Minimum:	50 Feet
Principal Building Height, Maximum:	35 ft.

(a) Minimum lot width shall never be less than 300 feet or one half of the lot depth, whichever is greater, except where expressly permitted by the Planning Commission or Board of Adjustment.

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SECTION 570 Natural Resources Overlay

Objective: Areas which have significant geologic features, unusual or important plant and animal qualities of scientific, ecological, or educational interest make lands in this district unsuitable for intensive development because of their local, statewide, national and global significance. Included are steep slopes, rare and endangered species, waterways, and stream, and significant wildlife habitat. Designation of this district is intended to protect the scenic and natural resource values of lands which are important for wildlife and wildlife habitat, and which are poorly suited for development because of their environmental constraints. To this end, land uses and development should be planned and designed to be compatible with the surrounding characteristics of the landscape, to be harmonious with wildlife habitat and the species that depend on this habitat, and should recognize and protect the full range of vegetative and animal habitats and species in the Town.

The GIS data provided by the Northwest Regional Planning Commission in the Town of Enosburgh's Land Use Map and the Critical Areas Map, as presented in the Town Plan are the basis for the Natural Resource Overlay district and provide information that can be used in conjunction with more specific data about wildlife habitat, steep slopes, and surface waters, including information published in the Open Space and Natural Resource Assessment, Enosburgh, Vermont. It also establishes an information base and a process of protecting areas from significant adverse effects of development, and to evaluate the impact of specific land use and development proposals with environmental constraints.

The Conservation Overlay District includes all lands located within and contiguous to the perimeter of areas identified on the Towns Critical Area Map and Land Use Map, and all lands with a slope of 15% or greater.

(A) Development Review Procedure

The Natural Resources Overlay District is intended to alert developers to issues they need to address in preparing an application for development. Regulations have been established for this district, which specify what additional information is needed at the time of submittal, and what special development standards must be met by development within the overlay district. The regulations for the Natural Resources Overlay District shall be regarded as supplementary to the regulations of an underlying district. When the regulations of the Overlay district and the basic district conflict, the more restrictive provision shall apply.

(1) Biologic Impact report

The DRB may require a biologic impact report to be prepared prior to making a recommendation or decision on a development proposal. Additionally, the DRB may determine that a biologic impact report is required as part of the submittal requirements for the development application when, based on the biologic information base described above, there is a significant impact to habitat or species resulting from the development proposal.

When required, a biologic impact report shall be prepared and submitted to the DRB for review. The study shall be prepared by a consultant or other party, qualified to assess the impact of development on biologic area and mutually agreed to by the regulating authority and the developer. The developer shall pay for the cost of the study. The study shall address the following:

- a. Total acres in the project area
- b. Total acres of each habitat type in the project area

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- c. Location and total acreage of open space areas in the project area
- d. Wildlife species known to be present or occurring on the site
- e. Use patterns of wildlife habitat within the project area (movement corridors, feeding areas, etc.
- f. Critical connections or relationships with adjoining habitats outside the project area
- g. Potential impacts of the proposed project on wildlife habitat and species
- h. List of proposed mitigation methods for each wildlife habitat and species
- i. Any other information deemed necessary by the DRB, government agency, consultant or other party to adequately assess the impact of the proposal on biological areas within or adjacent to the project site.

(2) Review of Development on Steep Slopes

Slopes provide an environment for movement of soil and pollutants when site disturbance occurs. While soils have varying degrees of erodibility, all soils are nonetheless subject to movement, and increasingly so as the slope of the land increases. Thus, the Town of Enosburgh requires review of those areas where soil movement is most likely to be a problem. Steep slopes are identified by the Enosburgh Town Plan as 15% or greater and are a constraint to development due to their impact on:

- a. amount of site disturbance
- b. visual scarring
- c. slope stability
- d. soil erosion, sediment transport and sedimentation
- e. economic costs of soil erosion and sedimentation
- f. septic systems and downslope neighbors- effluent comes to the surface when septic systems are installed on steep slopes regardless of soil type or depth of leachate trenches
- g. loss of local biodiversity
- h. wildlife potential
- i. harm to water quality and aquatic habitat

The Town prohibits development on slopes greater than 25% or adjacent to a floodplain or wetland. New structures or alteration of existing structures for transportation facilities, transmission lines, and sewer, water and gas lines may be constructed on steep slopes only if no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the steep slope, soil conservation and water quality plans are required.

Before final approval of a subdivision or site plan, an applicant desiring to develop on steep slopes between 15-25% shall provide a map illustrating the approximate acreage of the area, as well as a mitigation plan that includes measures that:

- a. avoid placement of such items as parking lots which require large flat surfaced areas on steep slopes
- b. modify land uses so site disturbance is minimized
- c. propose smaller scale rather than large scale development in order to minimize the amount of site disturbance
- d. design structures so they are stepped or otherwise fit the terrain
- e. minimize the extent of roads by following the line of existing topography
- f. group development together to avoid steep slopes
- g. provide financial commitment for implementation of a revegetation program. A performance bond may be required by the DRB.
- h. provide grading and foundation plans prepared by a registered professional engineer
- i. provide erosion control, revegetation, and urban runoff control plans

(C) Review of Development Near Streams and Lakes

Surface waters and their buffers are valuable to people and vital to our natural resources. The floodplains, wetlands, and wooded slopes along streams are very important parts of

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the stream ecosystem, and in many ways determine the diversity and health of a stream. The maintenance and enhancement of streamside and lakeside vegetation is the easiest and most effective means of protecting the many benefits and values associated with Enosburgh's waters. Thus, the Town of Enosburgh requires that an undisturbed naturally vegetated buffer strip be maintained from the shores of lakes and ponds and from each

bank of streams and rivers for several reasons, it:

- a. stabilizes banks and holds soil in place
- b. supports trees that drop leaves as food
- c. provides a refuge for threatened animals and plants
- d. takes up excess nutrients in the roots and recycles them
- e. decreases flood severity
- f. holds water
- g. filters stormwater runoff pollutants
- h. hides wildlife predators and their prey
- i. keeps stream shaded and cool
- J. support recreational activities
- k. provides drinking water for the community
- l. provides crop-saving irrigation for farmers during droughts

New structures or alteration of existing structures for transportation facilities, transmission lines, and sewer, water and gas lines may be constructed in buffers only if no practicable or feasible alternative exists for locating the structure elsewhere. If constructed within the buffer, acceptable management practices, soil conservation and water quality plan are required.

Existing structures already located in the buffer may be removed, restored, repaired, maintained, or enhanced. Enlargements no more than 20% may be allowed, but must submit a mitigation plan that includes acceptable management practices. Existing structures can also improve water quality by:

- a. planting native species such as willow, silver maple, or cottonwood along the riverbanks
- b. allowing a natural buffer to form from the edge of the lawn at least 35 feet to the river. This can simply be done by not mowing to the edge of the property along the waterway.
- c. re-positioning rain gutters so that they drain to the lawn instead of pavement

The following uses shall be prohibited within buffer strips:

- a. No alteration of streambed or bank, except to reduce erosion, and maintenance of stream crossings for agricultural purposes.
- b. In general, disturbances to natural vegetation are prohibited. These include disturbances by tree removal, clearing, burning, and spraying. No pesticide use or storage.
- c. No septic fields in the buffer
- d. No storage for motorized vehicles. No use of motorized vehicles except for approved maintenance and emergency use
- e. No sewage disposal systems may be located within 300 feet of normal high water level of a water supply or within 200 feet of the banks of any stream that feeds into a water supply.
- f. No soil disturbance from grading, plowing, except with approved soil conservation and water quality plan.
- g. No mining or excavation, except existing uses, no dredging except as permitted by State law.
- h. No deposit or landfill or reuse, solid or liquid waste; fill allowed only as approved by the Army Corps of Engineers
- i. No storage of materials
- j. No dumping
- k. No fill to expand development area

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In hardship cases, buffer requirements may be waived or modified by the Development Review Board in accordance with an approved stormwater management plan that provides equal or better water quality protection, requires mitigation measures to compensate for loss of habitats, and does not adversely affect habitats of threatened and endangered species.

The width of the buffer strip shall be in accordance with the table below and should be measured from the ordinary high water mark. No development or approved management practices shall occur within the buffer strips.

Width of Buffer Strips (feet along the ground surface)

Slope of adjacent Land	Seasonal (intermittent) streams and permanent streams less than 10 feet in average channel width	Lakes, Ponds, and streams greater than 10 feet in average channel width
0-10%	25	50
11-20%	45	70
21-30%	65	90
31-40%*	85	110

* add additional 20 feet for each additional 20% slope

The Fish and Wildlife Department should be consulted when considering variances or exception on pre-existing small lots, or an already developed streambank.

SECTION 580 Wetland Overlay

Objective: It is the policy of the State of Vermont to identify and protect wetlands of public significance and the values and functions which they serve in such a manner that the goal of no net loss of such wetlands and their functions is achieved. Thus the purpose of the Wetland Overlay District is to protect the natural system functions (e.g. water and air purification flood attenuation speciation and nutrient cycling) that are critical to the support of human animal and plant populations in the Town of Enosburgh.

(A) Location

The Wetland Overlay District includes: 1) all lands located within the perimeter of wetlands identified on the National Wetlands Inventory (NWI) maps published by the U.S. Fish and Wildlife Service, available at the Northwest Regional Planning Commission; 2) all wetlands identified on the Enosburgh Wetlands map published in Open Space and Natural Resources Assessment, Enosburgh, Vermont prepared by Arrowwood Environmental; and 3) all lands 50 feet of the perimeter of wetlands contiguous to such mapped wetlands.

The Wetland Overlay district is intended to alert developers to issues they need to address in preparing an application for development. Regulations have been established for this district, which specify what additional information is needed at the time of submittal, and what special development standards must be met by development within the overlay district. The regulations for the Wetland Overlay District shall be regarded as supplementary to the regulations of any underlying, basic district. When the regulations of the overlay district and the basic district conflict, the more restrictive provision shall apply.

(B) Exemptions

1) Exemption for Wetland Restoration

Work in a wetland area is exempt from these requirements if the purpose of

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the
work is to restore the wildlife habitat, the work will be done under the supervision of
the Vermont Department of Environmental Conservation (DEC) and the applicant
has been granted approval for the work to be done under the auspices of the
DEC's Conditional Use permit; or, under the supervision of the U.S. Army Corps of
Engineers and the applicant has been granted approval for work to be done under
the auspices of the nationwide 404 permit. Evidence of approval must be submitted to the Administrative Officer or regulating authority prior to commencement of any work conducted under this exemption.

2) Exemption for Farming Activities

- a. **Statutory guidance:** Section 902(5) of 10 V.S.A. defines wetlands to exclude "such areas as grow food or crops in connection with farming activities." Section 905(9) of 10 V.S.A. requires that any rules "that restrain agricultural activities" must have the consent of the Commissioner of the Department of Agriculture.
- b. **Definition:** Farming activities shall mean the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; and the growing of food and crops in connection with the raising, feeding, or management of livestock, poultry, equines, fish farms, or bees for profit.
- c. **Limitation on Exemption:** The farming exemption shall apply to all areas used to grow food or crops in connection with farming activities including areas in ordinary rotation, as of the effective date of these rules. The exemption will expire whenever the area is no longer used to grow food or crops or in ordinary rotation.

(C) Establishment of Buffer Zones - Disturbance of Wetland Areas

Soil disturbance and structures are prohibited within a one hundred (100) foot buffer zone contiguous to the boundaries of a Class One wetland and within a fifty (50) foot buffer zone contiguous to the boundaries of all other wetlands identified on the Enosburgh Wetland Map. The DRB may reduce the 100- and 50-foot setbacks during the public hearing process if the disturbance of the wetland area is minimized using the criteria listed in Sections F and G.

(D) Compliance with Federal, State and Local Requirements

(1) Compliance with Section 404 of the Clean Water Act

Any person proposing to conduct earth-disturbing activities in the Wetland Overlay District shall comply with requirements for permits under Section 404 of the Federal Clean Water Act (CWA). Activities in waters of the United States that are regulated under the CWA include fills for development, water resource projects (such as dams or levees), infrastructure development (such as highways and airports), and conversion of wetlands to uplands for farming and forestry. Impacts subject to Federal review include not only the area of wetland directly filled, but also any inundation or drainage of wetlands caused by the placement of fill or mechanized landclearing.

An applicant wishing to undergo such activities shall provide evidence that permits have been issued by the administering agency -- U.S. Army Corps of Engineers (USACE), Vermont Project Office -- under Section 404, or proof that no permit is needed. The process requires submission of a completed application form, vicinity map, site plan and cross-sections of proposed activity. A wetland delineation using the 1987 Corps of Engineers Wetlands Delineation Manual is required. The Soil Conservation Service should

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be contacted for delineation of agricultural lands. Plans should be drawn to scale and include the wetland boundary, dimensions of the proposed work, and extent of wetland encroachment.

(2) Compliance with the Vermont Wetland Rules

For wetlands not falling under the jurisdiction of Section 404 of the Clean Water Act, the State of Vermont has adopted the Vermont Wetland Rules under the auspices of the Agency of Natural Resources Department of Environmental Conservation, Water Quality Division. The purpose of this program is to protect significant wetlands in Vermont, which are identified on the National Wetlands Inventory (NWI) maps for the State of Vermont (1978), published by the U.S. Fish and Wildlife Service. The Vermont Wetland Rules establish a three-tier classification system for all wetlands in Vermont: Class One, Class Two or Class Three wetlands. Those wetlands designated as Class One or Class Two wetlands are so significant that they merit protection by the State and are regulated under the Vermont Wetland Rules.

Activities in Class One or Class Two wetlands that are regulated under the Vermont Wetland Rules include placement of fill for an access road or discharge of stormwater into wetlands. The rules contain detailed maps of all the protected wetlands and a list of activities that are permitted within the significant wetlands and their adjacent buffer zones without review under the rules, provided there is no draining, dredging, filling, grading or alteration of the water flow. All uses, which are not permitted uses, are conditional uses and require a Conditional Use Determination (CUD) by the Department of Environmental Conservation.

An applicant wishing to undergo such activities shall provide evidence that a CUD has been issued by the Department of Environmental Conservation, or proof that no permit is needed. If an individual is unsure whether a permit is required, the Wetlands Coordinator should be contacted.

(3) Compliance with Local Wetland Regulations

The Enosburgh Wetlands Map prepared by Arrowwood Environmental and published in Open Space and Natural Resource Assessment, Enosburgh, Vermont includes all Vermont State Class II and III wetlands, as well as some potential wetlands. All wetlands identified on the Enosburgh Wetlands Map will be protected with a 50 foot buffer. Prior to final approval of a subdivision, site plan or grading plan within the Wetland Overlay District, the project proponent shall:

- a. submit a plan to meet the standards set forth in Sections F and G; and
- b. present evidence of compliance with Section 404 of the Federal Clean Water Act, or compliance with the Vermont Wetland Rules; present evidence that work will be done under the auspices of the U.S. Army Corps of Engineers or the Department of Environmental Conservation, whichever is applicable; or present evidence that the wetland area is not subject to the jurisdiction of the U.S. Army Corps of Engineers under Section 404, or the jurisdiction of the Department of Environmental Conservation under the Vermont Wetland Rules.

(E) Criteria for Disturbing Local Wetland Areas and the Associated Setbacks

The regulating authority may allow disturbance of wetland areas or the wetland setback if the disturbance activity to the wetland area and the associated setback meet all of the following criteria:

- (1) There is not an available, practicable design alternative that can avoid the wetland areas and the associated setbacks without violating other community design goals and

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objectives as outlined in the applicable town plan and the requirements of these Bylaws (conservation, scenic quality, density, zoning...), and still allow for the reasonable use on the property.

(2) The project will limit the degree of impact on the wetland area and the associated setback to the greatest extent practical using the mitigation procedures outlined in Section G.

(3) The impact on the wetland area or the required setbacks will be mitigated by preservation and maintenance operations.

(4) The loss of a wetland area will be compensated for by replacing or substituting the wetland resource lost in terms of quantity and quality.

(5) The project's discharges will not violate other applicable regulations and laws (e.g., state water quality standards, Endangered Species Act, National Environmental Policy Act), or significantly degrade the waters of the United States. An activity is exempt from the setback requirement if the proposed activity is: (1) water dependent such as docks and piers or; (2) necessary to achieve either vehicular or utility access to property, and no other access route avoiding the wetland areas or the associated setbacks is technically feasible, provided the impacts of such access shall be mitigated in conformance with the standards contained in Section G; or (3) farming, ranching, and silviculture.

(F) Submittal Requirements for a Mitigation Plan for Disturbance of Wetlands
In order to qualify for disturbance of wetlands, where all or part of a wetland area or the associated setback is disturbed or substantially altered by development, the applicant shall provide the Administrative Officer or DRB with a mitigation plan for wetland disturbance. The mitigation plan shall be prepared in consultation with a State Wetland Coordinator, or other such agency and/or private consultant as approved by the Town. The mitigation plan for disturbance of wetlands must include, but is not limited to, the following:

(1) A statement as to why the wetland needs to be encroached and how the mitigation will meet the purpose of this section: the preservation of areas that are environmentally sensitive, that have severe limitations for development, or promote the goals of clean water quality;

(2) The amount, location, and acreage of wetland fill, removal, or other alteration proposed;

(3) The proposed mitigation improvements set forth in Section G, including those wetland areas to be restored or created;

(4) A grading and erosion control plan, including plant material to be used for revegetation and soil stabilization measures;

(5) A site plan showing the type and location of temporary and permanent best management practices (AMP's) that shall be used for mitigation purposes, during site construction and after site construction. Said AMP's include, but are not limited to, infiltration, detention and retention basins, constructed wetlands, and porous pavement. AMP's shall be designed, constructed and retained to minimize erosion and failure of wetlands, and meet the requirements of the physical and biological characteristics of the site;

(6) A maintenance schedule for all proposed permanent best management practices (AMP's).

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(G) Mitigation Procedures for Developing Within or Adjacent to Wetlands Areas

A mitigation plan shall be required, in accordance with Section F, for any unavoidable earth disturbing activities within wetland areas or the associated setbacks. Any earth disturbance within a wetland area or the associated setbacks shall use the following practices:

- (1) Time grading and construction to minimize soil exposure during periods of snowmelt and rainy periods;
- (2) Retain and protect natural vegetation; strip only the area required for construction in stages;
- (3) Infiltrate runoff from impervious surfaces by locating infiltration trenches below driplines, walkways, parking areas and driveways;
- (4) Minimize length and steepness of exposed slopes by designing with the natural topography; prevent erosion on exposed slopes by placing barriers, such as straw bale dikes;
- (5) Keep runoff velocities low to prevent high erosive powers by using flow barriers (vegetation, rip-rap...);
- (6) Protect drainageways and outlets from increased flows by using rip-rap;
- (7) Trap sediment on-site by straw bales, filter fences and sand bags;
- (8) Any disturbed areas must be replanted with native vegetation;
- (9) Natural hydrologic flows will be maintained through the site;
- (10) Minimize earth movement by avoiding cut and fill slopes;
- (11) Foundations shall be stepped down any slopes to minimize cut and fill;
- (12) Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety;
- (13) Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date;
- (14) No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activities primary purpose is to impound water;
- (15) Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance; and,
- (16) Any other appropriate measure as deemed necessary by the regulating authority.

(H) Financial Guarantee

An irrevocable letter of credit, or other financial guarantee deemed adequate by the Town, shall be posted by the applicant prior to issuance of permits to guarantee the success of measures needed to meet the standards required in this district for two years from the date permits are issued.

SECTION 590 FLOOD HAZARD OVERLAY DISTRICT

The purpose of this overlay zoning district is:

1. To minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding.
2. To ensure that the design and construction of development in flood hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property.
3. To encourage the maintenance of flood hazard areas as open space that will compliment the use and development of adjacent areas, as provided for in the Enosburgh Town Plan
4. To manage all flood hazard areas designated pursuant to 10 V.S.A. 753.
5. To make the Town of Enosburgh eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

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This district is an overlay district and shall be superimposed on the other districts established by this bylaw. Where the provisions of the underlying district conflict or differ from those of this district, the more restrictive shall govern.

Permitted Uses:

- 1) Agriculture
- 2) Forestry

Outdoor recreation

Conditional Uses:

All other permitted or conditional uses listed for the underlying district.

Area and Dimensional Requirements: As set forth for the underlying district.

Conditional Use Standards: In addition to the requirements of Section 430 & 440 of these bylaws and the requirements of the underlying district, all development in the Flood Hazard Overlay District must meet the standards established in Section 640 of these bylaws.

FLOOD HAZARD OVERLAY DISTRICT REQUIREMENTS

- A) **Adoption of provisions:** The mandatory provisions of state and federal law for continued eligibility in the National Flood Insurance Program are incorporated herein by reference to form part of this bylaw, and shall apply.

- B) **Base Flood Elevations & Floodway Limits:**
 - 1) The base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.
 - 2) Where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, base flood elevation and floodway information available from state or federal agencies or other sources shall be obtained and used to administer the provisions of these regulations.

- C) **Review Standards – Conditional Use:**
 - 1) **Floodway Areas within the Flood Hazard Areas**
 - a) Development within the floodway 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.
 - b) Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials are prohibited within the floodway.
 - 2) **All Flood Hazard Areas**
 - a) All development shall be designed to minimize flood damage and to provide adequate drainage to reduce exposure to flood hazards.
 - b) Structures shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood. They shall be constructed with materials resistant to flood damage with electrical, heating, ventilation, plumbing, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - c) The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
 - d) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

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- e) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- f) 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.
- g) The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
- h) Existing buildings to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of subsection (g).
- i) Existing buildings to be substantially improved for non-residential purposes shall either meet the requirements of subsection (h) or be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered engineer or architect has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- j) 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 engineer or architect or meet or exceed the following minimum criteria:
 - i. A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than 1 foot above grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings provided that they permit the automatic entry and exit of floodwaters.
- k) Areas to be used for junkyards or for storage of floatable, hazardous, or toxic materials shall be filled and graded to at least one foot above the base flood elevation.

ARTICLE VI – GENERAL REGULATIONS APPLICABLE TO ALL DEVELOPMENT

SECTION 610 ACCESS TO LAND DEVELOPMENT

No land development may be permitted on a lot that does not have either:

(A) Frontage on a maintained public road (Class I, II, III); or

(B) With the approval of the Development Review Board, safe and adequate access by means of a permanent easement or right of way to such a public road, or to public waters.

Access easements or rights of way for residential use shall not be less than 50 feet, agricultural right of way width shall not be less than 20 feet. Preexisting right of ways shall be subject to review upon a change in use, development, redevelopment, relocation or alteration.

SECTION 620 GENERAL REGULATION OF USES & STRUCTURES

ALLOWED USES OF LAND AND OF STRUCTURES: Every use of land or of any building or other structure shall conform to a class and type allowed in the zoning district in which the land and the structure are located, and shall comply with the provisions of this bylaw covering dimensions, area, density, or off-street parking or loading requirements (if any).

Any use of land or of any building or other structure not conforming to a class and type allowed in the zoning district in which the land and the structure are located, or not

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complying with the provisions of this bylaw covering dimensions, area, density, or off-street parking or loading requirements (if any) is absolutely prohibited.

Exception: Any use of land or building or other structure existing on the effective date of this bylaw, but not then conforming to a class and type allowed within the zoning district in which the land and the structure are located, or not complying with the provisions of this bylaw covering dimensions, area, density, or off-street parking or loading requirements (if any) may be allowed to continue subject to the provisions of section 403 of this bylaw.

ALLOWED BUILDINGS AND STRUCTURES: Every building or other structure shall conform to a class and type allowed in the zoning district in which the land and the structure are located, and shall comply with the provisions of this bylaw covering bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements (if any).

Any building or other structure not conforming to a class and type allowed in the zoning district in which the land and the structure are located, or not complying with the provisions of this bylaw covering bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements (if any) is absolutely prohibited.

Exception: Any building or other structure existing on the effective date of this bylaw, but not then complying with the provisions of this bylaw covering bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements (if any), may be allowed to continue subject to the provisions of section 670 of this bylaw.

SECTION 630 PRINCIPAL USES & STRUCTURES

There shall be no more than one principal use and structure per lot unless more than one of either or both is allowed as a conditional use and subject to site plan approval.

Where more than one principal use or structure is allowed on a lot, each of the principal uses and structures shall be of a type or class allowed in the zoning district in which the land and the structures are located.

Where more than one principal use or structure is allowed on a lot, the requirements of this bylaw applicable to the use or structure requiring the largest lot size shall apply to all of the uses and structures together as if there were a single principal use or structure on the lot.

Where more than one principal use and structure per lot is allowed all the uses and structures shall share the same access point to the lot.

In a farm dwelling complex the dwelling occupied by the farm operator shall be considered as the principal structure, the temporary living quarters shall be considered as accessory structures, and all may all be located on an area of land on the lot that is the size required for a multiple family dwelling.

ACCESSORY USES & STRUCTURES

There shall be no more than one accessory use and structure per lot unless more than one of either or both is allowed as a conditional use and subject to site plan approval.

Where more than one accessory use or structure is allowed on a lot, each shall be of a type or class allowed in the zoning district in which the land and the structures are located.

Accessory structures not subject to site plan and conditional use approval, and with a floor area of not more than 100 square feet and a height of not more than 10 feet, or an above-ground swimming pool with a diameter of 15 feet or less and a maximum depth of water of 3 feet or less, shall not require a zoning permit.

Accessory structures shall comply with setback requirements for the district in which they are located; however, the required setback for accessory structures with an area of not more than 100 square feet and a height of not more than 10 feet, or an above-ground swimming pool with a diameter of 15 feet or less and a maximum depth of water of 3 feet or less, shall be five feet, or the required setback for the district in which they are located, whichever is the lesser.

Every accessory structure shall be located at least five feet from any other structure on the

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lot unless it forms part of, or is attached to, the other structure.

ACCESSORY DWELLING UNITS

One accessory dwelling unit may be allowed, as an accessory to a single-family dwelling. The principal structure and the accessory dwelling unit, taken together as one unit, shall comply with the density, dimensional, and other requirements of this bylaw, the accessory dwelling shall not be larger than 1/3 the square footage of the principle dwelling. The accessory dwelling unit shall share the access point to the lot with the principal structure, where it can be proven that to do so would eliminate ability to create the accessory dwelling unit.

SECTION 640 PERFORMANCE STANDARDS

The following standards of performance must be met and maintained by all uses in all districts and shall be a guide for decision making for site plan approval:

- (A) No use of land or structures shall emit odors, noise, dust, dirt, noxious smoke or gases or other disturbances which are offensive and uncharacteristic of the area, or which cause damage to any home, business, vegetation or other property, or which endanger the health, safety or welfare of the neighborhood or
- (B) No use of land or structures shall present an unreasonable risk as to fire, explosion or hazard to any adjacent property or vehicular traffic.
- © No use of land or structures shall cause sewage or other harmful wastes to be discharged into any water course or into any disposal facility beyond its proper capacity. All local, state and federal health standards shall be complied with.
- (D) Development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use.
- (E) Preservation of open space within proposed developments shall be designed to be contiguous and interconnecting with adjacent open space, and shall be subject to permanent conservation restrictions. Open space shall also be designed to protect those portions of the site with the highest natural resource values. Within open space areas, the maximum amount of natural vegetation shall be maintained.
- (F) In the design of developments, significant natural and fragile areas including critical wildlife and plant habitat; water resources such as lakes, rivers, aquifers, and wetlands; historic, cultural, and archaeological areas; significant scenic roads and views; unfragmented forest and woodlands; and significant landforms shall be preserved in accordance with the standards set out in this bylaw or the Subdivision Regulations, whichever is applicable.
- (G) Wireless telecommunications facilities shall be required to locate on existing structures and/or co-locate with existing facilities in order to minimize their visual and environmental impacts in accordance with the standards set out in this bylaw or in a specific Town Ordinance, whichever is applicable.

SECTION 650 HEIGHT LIMITS

No building or other structure, whether principal or accessory, shall exceed 35 feet in height above the average ground level unless approved by the Development Review Board. The Board may permit structures in excess of 35 feet provided the structure does not constitute a hazard.

Unless otherwise provided herein, limitations on permissible heights of structures shall not apply to antenna structures, to windmills with blades less than 20 feet in diameter or to

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rooftop solar collectors less than 10 feet high which are mounted on complying structures.

SECTION 660 ABANDONMENT OF CONSTRUCTION OR DAMAGED STRUCTURES

Within two years after the abandonment of any structure which has been substantially damaged by fire or other cause, or if active work on an uncompleted construction project has not occurred in such period, the owner shall either remove all ruins and structural materials and restore the site to a smooth grade, or resume construction or repair of the structure.

SECTION 670 NONCONFORMING STRUCTURES AND USES

A nonconforming structure may remain indefinitely as and where it stands on the effective date of this bylaw. A nonconforming structure may also be rebuilt, repaired, relocated, altered, or enlarged, subject to the following:

- A) A nonconforming structure destroyed, demolished or damaged to any extent may be rebuilt or repaired subsequent to the destruction, demolition or damage provided that the rebuilding or the repair is commenced within two years of the destruction, demolition or damage, and provided that the rebuilding or the repair does not increase the degree of nonconformity that existed prior to the destruction or damage. If the rebuilding or the repair is not commenced within two years of the destruction, demolition or damage, the structure may only be rebuilt or repaired in conformity with the requirements of this bylaw applicable to new development. Application for a zoning permit and, if required, site plan or conditional use approval, or both, by the Development Review Board within two years of the destruction, demolition or damage shall constitute commencement of the rebuilding or the repair.
- B) With the approval of the Development Review Board, a nonconforming structure, whether or not it has been destroyed, demolished, or damaged as set out in paragraph A above, may be relocated, altered or enlarged so as to increase the degree of nonconformity: (1) solely to provide disability access, or to comply with federal, state, or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions, or, (2) if the relocation, alteration, or enlargement is necessary to enable the reasonable use of the structure, will not alter the essential character of the neighborhood or district in which the structure is located, will not substantially or permanently impair the appropriate use or development of adjacent property, will not reduce access to renewable energy resources, will not be detrimental to public welfare, and provided that the increase in the degree of nonconformity represents the least deviation possible from the requirements of this bylaw applicable to new development.
- C) Nothing in this Section shall be deemed to prevent normal maintenance and repair of a nonconforming structure provided that such action does not increase the degree of nonconformity.
- D) With regard to nonconforming structures, the Development Review Board may hold hearings, make findings, and attach such conditions to rebuilding, repair, relocation, alteration, or enlargement as are necessary to ensure the least deviation possible from the requirements of this bylaw applicable to new development.

A nonconforming use may continue indefinitely without alteration in the manner it is being carried out on the effective date of this bylaw. A nonconforming use may also be altered, changed to another nonconforming use, or expanded, subject to the following:

- A) With the approval of the Development Review Board, a nonconforming use may be altered, or changed to another nonconforming use, if the alteration of the continuing

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use, or the new use, maintains the same or a lesser degree of nonconformity,

- B) Upon the abandonment or discontinuance of a nonconforming use for a period of twelve consecutive months, or if a nonconforming use is changed to a conforming use, the nonconforming use may not be recommenced or continued regardless of intention to perpetuate such use.
- C) With the approval of the Development Review Board, a nonconforming use may be expanded so as to increase the degree of nonconformity: (1) solely to provide disability access, or to comply with federal, state, or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions, or, (2) if the expansion is necessary to enable the reasonable use of the land, will not alter the essential character of the neighborhood or district in which the use is located, will not substantially or permanently impair the appropriate use or development of adjacent property, will not reduce access to renewable energy resources, will not be detrimental to public welfare, and provided that the increase in the degree of nonconformity represents the least deviation possible from the requirements of this bylaw applicable to new development.
- D) Nothing in this Section shall be deemed to prevent normal continuation of a nonconforming use provided that such action does not increase the degree of nonconformity.

With regard to nonconforming uses, the Development Review Board may hold hearings, make findings, and attach such conditions to alteration, change, or expansion as are necessary to ensure the least deviation possible from the requirements of this bylaw applicable to new development.

SECTION 680 NONCONFORMING LOT OR PARCEL

- A) A nonconforming lot or parcel legally subdivided, in individual and separate and nonaffiliated ownership from surrounding properties, and in existence on the effective date of this bylaw may be developed for the purposes permitted in the zoning district in which it is located, even though not conforming to the dimensional requirements of this bylaw, provided that the lot or parcel is not less than one-eighth acre in area, or has a minimum width or depth dimension of at least 40 feet.
- B) If a nonconforming lot or parcel comes under common ownership with one or more contiguous lots or parcels on or after the effective date of this bylaw, the nonconforming lot or parcel shall be deemed merged with the contiguous lots or parcels. However, such a deemed merged nonconforming lot or parcel may subsequently be separately conveyed if all the following apply:
 - 1) Each nonconforming lot or parcel is conveyed in its preexisting, nonconforming configuration; and
 - 2) On the effective date of this bylaw, each nonconforming lot was 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 for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

ARTICLE VII – SPECIFIC USE & STRUCTURE REQUIREMENTS

SECTION 705 HOME OCCUPATIONS

(A) A home occupation is a use of a minor portion of a dwelling for an occupation which is customary in residential areas, and which does not change the character thereof, including

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but not limited to: dressmaking, home cooking, or teaching/tutoring (limited to not more than four pupils at any one time); tourist or rooming house (no more than two tourists or roomers at any one time); art studio; child care, daycare or babysitting service (limited to not more than six children at any one time); furniture making, repair, or refinishing; and any other home occupation uses which are customary in residential areas and which do not change the character thereof.

The following do not qualify as home occupations: the sale of property at retail, unless as a minor or subordinate part of a permitted home occupation use; commercial stable or kennel; restaurant; musical or dance instruction to groups; medical office or clinic; garage or shop for the repair of motor vehicles; machine shop; mortuary; antique shop, gift shop; or uses similar to the foregoing.

(B) Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:

(1) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures, occupying no more than the equivalent of twenty-five percent (25%) of the dwelling's ground floor area. No goods, materials, or products shall be publicly displayed on the premises;

(2) The home occupation shall be carried on by members of the family residing in the dwelling unit. Two additional employees who are not members of the family are permitted;

(3) No traffic shall be generated which would be uncharacteristic of the neighborhood. Delivery or pickup of goods shall not exceed that normally created by residential uses.;

(4) Exterior displays, exterior storage of materials, and exterior indications of the home occupation or variation from the residential character of the principal or accessory structures shall be prohibited.

(5) Home occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Town as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a home occupation based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the dwelling for residential purposes.

(6) Additions to a dwelling or accessory structure for the purpose of conducting a home occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.

(7) No hazardous chemicals shall be stored on site.

(8) No process, chemicals, or materials shall be used which are contrary to any applicable State or Federal laws.

(C) There shall be permitted for each home occupation, one sign as follows:

(1) A flat sign not to exceed six square feet in sign area; or

(2) An overhanging sign not to exceed six square feet in sign area; or

(3) A free-standing sign not to exceed six square feet in sign area.

(4) No sign shall be illuminated.

(5) No sign shall be located within ten feet of a front lot line.

(D) A person using a dwelling for a home occupation shall provide, in addition to the parking spaces required for the dwelling, adequate off-street parking spaces on the same lot or on a lot adjacent thereto under the same ownership or under a permanent easement.

(E) The above regulations shall not, however, be construed to infringe upon the right of any person to use "a minor portion of their dwelling for an occupation which is customary in residential areas and which does not change the character thereof", as provided in 24

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VSA § 4406.

(F) In cases where use as a home occupation is denied because it does not comply with Subsections A-D above, the applicant may appeal to the Development Review Board. The appeal shall include consideration of the requirements of 24 V.S.A. § 4406(3), the provisions of Subsections A-D above, including Character of the Area/Neighborhood Considerations

SECTION 710 LIGHT INDUSTRY/COMMERCIAL USES

(A) It is the intent of this section to provide the standards applicable to the light industrial and commercial uses that are allowed, and to ensure that these uses are served with adequate transportation facilities, and that users conduct activities that create low to moderate hazards to adjacent properties.

(B) Light Industry/Commercial Uses are allowed as a conditional use in the Agricultural/Rural Residential district subject to review and approval by the Development Review Board. Light industrial and commercial uses shall be allowed on the basis of individual merit, a periodic review of each activity shall be performed to ensure the conditions of approval are adhered to. If a premise is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the Development Review Board. If any changes are necessary, the request will be reheard by the Development Review Board.

(1) In order to provide adequate on-going review of Light Industry/Commercial Uses to ensure that the use continues to meet the standards of this section, that the nature of the area has not changed sufficiently to cause the use to be detrimental to the area, and to review the conditions of the prior conditional use permit to determine their continuing adequacy, conditional use permits for light industry/commercial shall be subject to the following time limits:

- a. The initial conditional use permit shall not be issued for more than one year.**
- b. The second conditional use permit shall not issued for more than three years; and**
- c. The third and subsequent conditional use permit shall not be issued for more than five years.**

(2) The Development Review Board shall not approve a conditional use permit for light industry/commercial use unless the following findings can be made:

- a. That the proposed use conforms to the requirements of this section;**
- b. That the site is physically suitable for the project;**
- c. That adequate water and sewer exists or can be provided;**
- d. That adequate road and transportation facilities exist for the use. In the case of Light Industry/Commercial Use, adequate road and transportation facilities shall mean accessible roads;**
- e. The use proposed is compatible with the character of the area.**
- f. That the subject property complies with all zoning standards, such as height, setbacks, minimum lot sizes, and density and that no zoning violations exist on the property; and**
- g. Impacts considered potentially significant are mitigated.**

(C) A Light Industry/Commercial Use shall conform to the following standards;

(1) It shall occupy not more than one principal building and one accessory building for storage purposes only. The floor area of the principal building shall not exceed ten thousand (10,000) square feet. The floor area of the accessory building shall not exceed two thousand five hundred (2500) square feet.

(2) The light industry/commercial use shall employ no more than 50 persons or shall not generate more than 70 vehicle trip ends per day (based on research conducted by the Institute of Transportation Engineers). However, no traffic shall be generated which would

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be uncharacteristic of surrounding uses.

(3) No goods, materials, or products shall be publicly displayed on the premises;

(4) Exterior displays, exterior storage of materials, and exterior indications of the light industry/commercial use shall be prohibited.

(5) Light industries/commercial uses shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Town as a whole.

Any machinery, mechanical devices, or equipment employed in the conduct of a light industry/commercial based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with surrounding uses.

(6) No hazardous chemicals shall be stored on site.

(7) No process, chemicals, or materials shall be used which are contrary to any applicable State or Federal laws.

(8) Hours of operation shall be approved by the Development Review Board.

(9) Drive-thru restaurants and other drive-thru facilities shall be prohibited.

(11) Buildings shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and such uses shall not change the essential character of the same area.

(13) A landscape plan shall be required. Vegetative buffers of 25 feet in width may be required to prevent visual impacts on nearby residential areas and on scenic resources.

(12) The owner, lessee or user shall be responsible for maintaining an orderly appearance of all properties and shall be responsible for assuring the care and maintenance of any natural growth where appropriate. All required yards, parking areas, storage areas, operation yards and other open uses on the site which are adjacent to a public right-of-way shall be maintained in a neat and orderly manner appropriate for the district at all times.

(D) There shall be permitted for each light industry/commercial use, two signs as follows:

(1) A flat sign not to exceed 25 square feet in sign area; or

(2) An overhanging sign not to exceed 25 square feet in sign area; or

(3) A free-standing sign not to exceed 25 square feet in sign area or 20 feet in height.

(4) No sign shall be illuminated.

(5) No sign shall be located within ten feet of a front lot line.

(E) Parking shall adhere to the requirements in Section 715. However, parking areas shall be provided in the back of buildings.

(F) In the event any light industry/commercial use shall be complained of creating or causing a nuisance or conducting a manner of business not customarily carried on as light industry/commercial, then the Development Review Board may order the operator of such activity to appear before the Development Review Board for review of the use. If the

DEVELOPMENT REVIEW BOARD finds, following a hearing on the light industry/commercial use, the requirements of these Zoning Bylaws are not being met by the operator of the light industry/commercial use, then the Development Review Board shall have the authority to order a limit on the hours of operation, impose conditions of operation or, if deemed necessary, order the complete termination of the activity.

(G) Proposed revisions or additions to a light industry/commercial use shall constitute a change of use and shall be subject to special use review and approval by the Development Review Board.

(J) Development and redevelopment should be designed to promote the efficient use of energy, including orienting structures to take advantage of solar gain and to maintain solar access for adjacent sites. Site design should protect and optimize the potential for the use of solar energy for heating and electricity.

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(K) Development and redevelopment should incorporate energy-efficiency measures that exceed state standards. Energy-efficient construction techniques and materials to be encouraged would include but not be limited to:

- (1) above-minimum R-values for insulation of walls, attics, and foundations;**
- (2) use of thermal-pane windows with low-emissivity coating with high R-values;**
- (3) annual fuel-usage efficiency ratings of at least 90% for all new heating systems; and,**
- (4) use of segregated or on-demand water heaters.**

(L) New development proposed on local and regional roadways shall be sized such that it can be accommodated without significant changes to the existing character of the roadway. Any necessary structural improvements shall be consistent with the existing character of the roadway. If available, new development shall use secondary roads or shared driveways as primary accesses in order to limit the number of curb cuts along major roads and highways.

(M) Development or redevelopment shall remove excessive curb cuts, or shall share curb cuts with adjoining parcels, if possible.

(N) New development proposed adjacent to scenic roads should be designed to preserve distinctive features of the scenic road including tree canopy, stone walls, winding road character, and scenic views, and to limit the visibility of new development. New development adjacent to or within scenic open vistas shall be clustered and designed to avoid adverse impact to scenic resources.

(O) All development shall implement a landscape plan that addresses the functional aspects of landscaping, such as drainage, erosion prevention, wildlife enhancement, screening and buffering, wind barriers, provision for shade, energy conservation, sound absorption, dust abatement, and reduction of glare. When vegetative buffers are necessary to prevent visual impacts from new development on scenic resources, maintenance of existing vegetation shall be required in the buffer area. A maintenance agreement or irrigation system, as appropriate, shall be provided by all development.

SECTION 715 PARKING REQUIREMENTS

(A) Adequate provision shall be made so that normal vehicular traffic to any use may be parked off the public roads and highways. Specifications shall be provided as follows whenever any new use is established or when the present use is expanded:

- (1) Residential - 2 parking spaces per dwelling unit;**
- (2) Rooming and boarding, and lodging establishments - 1 per (rental) lodging unit;**
- (3) Professional and business offices - 1 per 200 sq. ft. of floor space;**
- (4) Retail and repair establishments - 1 per 250 sq. ft. of floor space;**
- (5) Restaurants (not including drive-in) - 1 per employee plus 1 per 4 seats;**
- (6) Industry - 1 per employee on the largest shift;**
- (7) Unspecified uses - as required by the Development Review Board.**

(B) The Development Review Board may require additional parking and loading spaces, if it is found that the above-specified standards are not sufficient.

© The board may adjust the number of parking spaces for nonresidential parking where shared spaces may be utilized.

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SECTION 720 SIGNS

A) A zoning permit shall be required prior to the erection, construction or replacement of an outdoor sign except the following, which shall be exempt from this bylaw:

- (1) public highway signs;**
- (2) nonadvertising signs placed for directional or safety purposes (i.e.: “rest rooms”, “telephone”, “office”, “exit”, “falling ice”, “fire extinguisher”, “no trespassing”, etc.);**
- (3) temporary auction, lawn sale or real estate for sale signs, not to exceed two in number and not to exceed 15 square feet in combined area. All such temporary signs shall be promptly removed when they have fulfilled their functions.**

(B) The following shall be prohibited in all districts:

- (1) signs which impair highway safety;**
- (2) signs which are animated, flashing or intermittently illuminated or uncharacteristic to the area;**
- (3) roof signs and wall signs which extend above the roof line;**
- (4) signs which project over public right of way or property lines.**
- (5) signs in excess of 30 feet high in all districts.**

(C) On premises signs may be permitted as provided below:

Type of Premises of Signs- Premises	Max. Number	Max. Sign Area		Max. Height
		Any Sign	All Signs	
Home Occupation/ Cottage Industry	One	6 sq ft	6 sq ft	6 feet
Business or Industry	Two	25 sq ft	25 sq ft	20 feet
Church, School or Other Public Uses	One	20 sq ft	20 sq ft	15 feet

When computing the total permissible sign area for any use:

- (1) existing signs shall be included;**
- (2) the total area of all signs shall not exceed the requirements as set forth in these regulations;**
- (3) signs consisting of free standing letters, numerals or other components shall include any entrenching space between them;**
- (4) only the larger face area of a double-faced or y-type sign shall be used, and the angle of these signs is not to be greater than 150 degrees;**
- (5) back to back signs may be counted as one sign.**

(D) Illuminated signs shall be lighted so as not to produce undue glare, hazard or distraction to traffic or adjacent uses of land. Illumination shall be properly focused upon (or from within) the sign itself.

(E) Notwithstanding those district setback requirements for structures, free-standing signs may be placed at the edge of the highway right of way. However, such signs shall not be located within 20 feet of adjacent private property unless combined (or on the same stand with) the sign of an adjacent business.

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SECTION 725 JUNKYARDS

Junkyards are prohibited in every zoning district. However, junkyards conforming to the bylaws in effect at the adoption of this bylaw may continue subject to the requirements of Section *.

SECTION 730 LANDFILLING & EXCAVATION

A) Any major land filling or excavation which would cause a substantial change in the rate or direction of drainage shall be permitted only upon conditional use approval by the Development Review Board, after a public hearing. The Board shall consider the existing and proposed grades and materials to be used. Appropriate conditions and safeguards may be imposed to minimize any adverse effects on other properties, such as erosion, etc.

(B) Commercial or industrial extraction of earth resources shall be permitted only upon conditional use approval by the Development Review Board, after a public hearing. Before approval may be granted, the applicant shall:

- (1) Submit an acceptable plan showing existing and proposed finished grades of the site so as to demonstrate that the site will be left in a usable condition;
- (2) Agree to cover the finished grades, except exposed ledge rock, with at least 3 inches of topsoil and seed with a suitable crop cover upon completion of the operation; and
- (3) Post bond with the Town Treasurer sufficient to guarantee such restoration of the site, if required by the Development Review Board (see also Section 4407 (8) of the Act).
Preexisting land fill and excavation are exempt from regulation if continued at the historical rate with no substantial change.

SECTION 735 CAMPER TRAILERS, SCHOOL BUSES, AND MOTOR HOMES

A single (1) camper trailer, school bus, motor home, or other large vehicle may be stored within the setbacks on a lot. A trailer, school bus, motor home, or other passenger vehicle may not be occupied for dwelling purposes, unless for recreational purposes for no more than a cumulative time period of four (4) months during a calendar year. In no case shall a trailer, school bus, motor home, or other large vehicle be attached to a septic system. Any sewage generated shall be disposed of off-site in accordance with applicable State and Federal regulations.

SECTION 740 ACCESSORY DWELLING UNIT

There shall be only one principal structure on a lot, but one accessory apartment as one additional dwelling unit may be approved in all districts on a lot where the principal structure is a single-family dwelling. An accessory apartment is allowed only both units meet the dimensional regulations and other requirements of these regulations. In the case of non-conforming lots where the principal structure is pre-existing, an attached accessory apartment will be allowed as long as the accessory apartment does not increase any non-compliance that may exist. The accessory apartments shall share the existing access point to the property with the principal structure, unless it can be proven that to do so would eliminate ability to create the accessory dwelling unit. The accessory dwelling shall not be larger than 1/3 the square footage of the principle dwelling.

SECTION 745 WIND TURBINES, WIND FARMS, AND RELATED FACILITIES

Wind turbines and wind energy facilities shall be a conditional use in all districts subject to review by the Development Review Board and must meet the following criteria in addition to the general standards specified in Section 306.

- (1) Climbing and access to the tower shall be restricted. For rotors 20 feet or more in diameter, the area around each wind turbine and any appurtenant structure (other than an access road) shall be completely fenced for security to a height of 6 feet and gated. One sign no greater than 1 square foot shall be posted adjacent to the entry gate, indicating the

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name of the wind facility owner and a 24-hour emergency telephone number;

- (2) For rotors 20 feet or more in diameter, a setback from all lot lines shall be 275 feet;
- (3) Any wind turbine shall have a minimum blade clearance from the ground immediately below each wind turbine of 20 feet;
- (4) Wind turbines shall be of a nonreflective, unobtrusive color with a nonreflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact;
- (5) Wind energy facilities shall be evaluated based on neighborhood context and sited so as to minimize the diminution of residential property values and visual/aesthetic impact;
- (6) Any wind facility which has reached the end of its useful life or has been abandoned shall be removed by the owner. Abandoned is defined as the failure to operate the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the wind facility site shall be reclaimed.
- (7) Bond or money in escrow must be provided to insure that the cost of wind facility removal is covered.
- (8) The developer must provide evidence of appropriate insurance in order to protect potential impacts to abutters.
- (9) Airplane indicator signal shall have the least adverse visual impact as technically feasible.
- (10) The Development Review Board reserves the right to apply additional conditions as appropriate.

A wind energy conversion system consisting of one wind turbine, one tower less than 120 feet in height above grade excluding the wind turbine itself, and associated control or conversion electronics, which has a rated capacity of not more than 100kW, and which is intended to primarily reduce on-site consumption of utility power shall be exempt from the provisions of this Section.

SECTION 750 COMMERCIAL TELECOMMUNICATIONS TOWERS AND ANTENNAE

Commercial telecommunication towers and antennas shall be a conditional use in all districts subject to review by the Development Review Board and must meet the following criteria in addition to the general standards specified in Section 306.

- (1) Climbing access to the tower shall be restricted;
- (2) For towers 20 feet in width (diameter) or more, a setback from all lot lines shall be 275 feet;
- (3) Commercial towers shall be evaluated based on their impact to the character of the neighborhood and visual impact;
- (4) Antennas shall be placed on existing structures such as silos or church steeples where available and appropriate;
- (5) Commercial towers shall be of a nonreflective, unobtrusive color with a nonreflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact;
- (6) Any commercial telecommunication tower which has reached the end of its useful life or has been abandoned shall be removed. Abandoned is defined as the failure to operate the facility on a continuous and ongoing basis for a period of one year. At the time of removal, the tower site shall be reclaimed.
- (7) Bond or money in escrow must be provided to insure that the cost of commercial telecommunication tower removal is covered.
- (8) The developer must provide evidence of appropriate insurance in order to protect potential impacts to abutters.
- (9) The Development Review Board reserves the right to apply additional conditions as appropriate.

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SECTION 755 MOBILE HOMES & MOBILE HOME PARKS

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 an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes.

Pursuant to the Act, Section 4406 (4), a mobile home shall be considered a single family dwelling and shall meet the same zoning requirements applicable to single family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure . In addition, mobile homes may be permitted in a mobile home park subject to the requirements of this section and state law. Except as provided in [24 V.S.A. 4414(1)(E) and (F)] no bylaw shall have the effect of excluding mobile homes, modular housing, pre-fabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

(A) New mobile home parks and any addition or alteration to an existing mobile home park shall require Subdivision and Site Plan Approval and conditional use approval by the Development Review Board.

(B) A mobile home park shall have a contiguous area of not less than five (5) nor more than fifteen (15) acres. The maximum density of any mobile home park shall not exceed an overall average of one mobile home per acre.

© A strip of land at least 50 feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home unit or office, utility or service building may be placed in this buffer area.

However, the Development Review Board may reduce or eliminate this landscaped area requirement if such a modification or waiver will make it possible to preserve a scenic view from the mobile home park, provided the privacy for adjacent property owners can be maintained.

(D) Each mobile home lot shall have at least 30 feet of frontage on a mobile home park road. Said roads shall be constructed to the Selectmen's road standards.

(F) Sewage disposal, water supply and garbage facilities shall comply with State Regulations.

SECTION 760 CAMPGROUNDS

New campgrounds or any addition or alteration to an existing campground shall be a conditional use in all districts subject to review by the Development Review Board and must meet the following criteria in addition to the general standards specified in Section 640:

(A) Campgrounds shall provide toilet facilities and individual camping vehicle or tent spaces.

(B) All campgrounds shall comply with State Regulations.

© A strip of land at least 50 feet wide shall be maintained as a landscaped area abutting all campground property lines. No camping vehicle, tent or service building shall be located in

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this buffer area. The Development Review Board may reduce or eliminate this landscaped area provision if such a modification or waiver will make it possible to preserve-a scenic view from the campground providing that privacy for adjacent property owners can be maintained.

(D) Collector roads within the campground shall meet the following minimum standards:

	One-Way Roads	Two-Way Roads
Right-of-Way Width	18 feet	33 feet
Gravel Depth	12 inches	12 inches
Gravel Width	10 feet	20 feet

(E) Every campground operator shall maintain a register, available to any authorized person inspecting the facility, or to any emergency officials. Said register, shall contain the names and addresses of all campground occupants and the dates of occupancy, and it shall be preserved for a period of at least one year.

SECTION 765 PLANNED UNIT DEVELOPMENTS

(A) In accordance with Section 4404 (3) and (12) of the Act, the Development Review Board is permitted to modify this bylaw for a planned unit development (PUD). The purpose of this provision is to encourage clustering and other innovation in design and more efficient uses of land, to facilitate the adequate and economic provision of streets and utilities, and to preserve the natural and scenic qualities of the town.

(B) To qualify, a PUD project shall:

- (1) be a allowed (permitted or conditional) use for the district in which it is to be located;
- (2) contain at least 3 contiguous acres for a PUD ;
- (3) conform to the definitions herein and to the requirements of Section 4407 of the Act. A PUD also allows for any combination of commercial uses, industrial uses, recreational uses, education or community facilities or dwelling units in detached, semidetached or multistoried structures.

© Planned Unit Developments shall be reviewed under the following general conditions and standards during Development Review Board review of the subdivision plat under the Town Subdivision Regulations:

- (1) In addition to the submission requirements for major or minor subdivisions, PUD proposals shall be submitted to the Development Review Board and shall include a site plan showing the location and general designs of all structures, open spaces, landscaping, driveways, streets, parking areas, easements and all other physical features, together with a statement setting forth the nature of all proposed modifications of this bylaw.
- (2) The project shall be consistent with the Town Plan, and the predominant uses of the site shall not differ substantially from the uses allowed in the district in which the project is located.
- (3) Density may vary within the development, however, in any PUD , the number of dwelling units shall not exceed the number which could be permitted if the land were subdivided into lots in conformance with the applicable district requirement of this bylaw. In any PUD, overall density of dwelling units shall not exceed 25%, or 50% if affordable housing, more than the prescribed district density.
- (4) The dwelling units permitted may, at the discretion of the Development Review Board,

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be of various types including one-family, two-family or multi-family construction. Mixed uses shall be so arranged as to be compatible, and to insure visual and aural privacy for the residents to the development and for adjacent properties. The minimum setback requirements for the district in which the project is located shall apply to the periphery of the development.

(5) The Development Review Board shall require that a reasonable percentage of the land be utilized for open space, recreation areas or necessary municipal purposes, as set forth in Subsection E. The amount of land so designated shall be determined by the Development Review Board on the merits, purpose, and conditions of the individual proposal. Further, the Development Review Board may establish conditions on the ownership, use, and maintenance of said lands as it deems necessary to assure preservation of said lands for their intended purposes.

(6) Layout of lots and streets shall at least meet the review standards under Section 620 & 640 of this bylaw.

(7) The project shall be an efficient and unified treatment of the development possibilities of the site, and appropriate provisions shall be made for the following:

(a) roads, culverts and ditching in accordance with the Selectmen's specifications;
(b) water supply, sewage and solid waste disposal, drainage, traffic flow and parking, and the layout of the facilities so that public services can be economically and effectively provided; and

c) preservation of streams and stream banks, steep slopes greater than 25%, wet areas, soils unsuitable for development, forested areas, and unique natural and cultural features.

(D) The following specific standards may be required for the approval of PUD's

in addition to the general conditions listed above:

(1) Further restrictions on the height and spacing between buildings
(2) Greater setback and screening requirements for structures and parking areas and other development along the perimeter of the PUD and between the development areas and the common open space areas

(3) Provision of adequate pedestrian facilities

(4) Building envelopes may be required for present and future phases

(E) The location(s), size and shape of lands set aside for open space shall be approved by the Development Review Board. Provision of open space shall include but not be limited to the following:

(1) Open space land shall provide for the protection of resources on the site including agricultural land, productive woodland, wildlife habitat, natural areas, aquifer protection areas, wetlands, views and vistas, streams, stream banks, bodies of water, and historic sites.

(2) The location, shape, size, and character of the open space land shall be suitable for its intended use.

(3) Open space land shall be suitably improved and/or maintained for its intended use, except for open space containing natural 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 utilized for these purposes. Management plans for forestry and wildlife habitat may be required.

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(4) Land shown as open space shall be protected for its intended use through a mechanism approved by the Development Review Board, such as the granting of a conservation easement to the Town. All costs for creating and maintaining open space are the responsibility of the land owner.

(5) The Development Review Board shall consider the following guidelines when establishing open space area requirements: for PUD parcels of 2 to 100 acres in size, open space areas are recommended to be 15% to 50+% of the total area; for PUD parcels over 100 acres in size, open space areas are recommended to be 50+% of the total area.

(6) Open space land shall be located so as to conform with and extend existing and potential open space on adjacent lands.

(7) Additional measures that may be imposed to protect resources identified on the parcel include, but are not limited to, restrictions on building sites through designation of building envelopes and clearing limits.

(8) The Development Review Board shall require the Town be a party to legal mechanisms for the protection of open space. In certain cases the Development Review Board may require a third party to be party to the agreement. All costs associated with administering and maintaining the open space shall be born by the applicant.

(9) Sewage disposal and water supply areas and road rights of way shall not be counted as open space areas, except where the applicant can prove, to the satisfaction of the Development Review Board, that the sewage disposal, water supply facilities and road right of way will in no way disrupt or detract the values for which the open space is to be protected

(10) Areas in agricultural and productive woodland should be of a size that retains their eligibility for State tax abatement programs.

(F) Two or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PUD. The permitted number of dwelling units on one parcel may be increased as long as the overall number of units 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 the district regulations. Parcels separated by a public or private road or railroad right of way may be considered contiguous by the Development Review Board for the purposes of this section provided:

(1) The Development Review Board finds that the boundaries overlay adequately.

(2) The PUD promotes the protection of significant natural resources and unique features in the Town.

(G) A density increase of 20% beyond the number which could be allowed under existing zoning regulations may be permitted by the Development Review Board if the land is subdivided into lots that are in conformance with the zoning regulations for the districts where such land is situated, giving due consideration to site conditions limiting development, such as shallow depth of soil, wetness and steep slopes. In granting a density increase, the Development Review Board shall also consider the capacities of community facilities and services and the character of the area affected.

(H) In order to encourage the creation of perpetually affordable elderly housing, the Development Review Board may grant a density of up to 20% beyond the number of building lots or dwelling units permitted in a PUD for the number of dwelling units in a development that are designated perpetually affordable elderly. In order to maintain the health and safety of the community, density increase for affordable elderly housing shall be allowed only as a PUD. All affordable elderly building lots and dwelling units shall be kept perpetually affordable and for use by the elderly through a mechanism satisfactory to the Development Review Board.

(I) In order to encourage the creation of perpetually affordable housing, the Development Review Board may grant a density of up to 20% beyond the number of building lots or

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dwelling units permitted in a PUD for the number of dwelling units in a development that are designated perpetually affordable. In order to maintain the health and safety of the community, density increase for affordable housing shall be allowed only as a PUD. All affordable building lots and dwelling units shall be kept perpetually affordable through a mechanism satisfactory to the Development Review Board.

(J) Upon approval of the Planned Unit Development by the Development Review Board, the necessary modifications of this bylaw shall be noted in a report and, together with the approved proposal, submitted to the Development Review Board for a public hearing under conditional use review. All other provisions of this bylaw not specifically modified shall remain in force and be applicable to this project.

(K) As provided in the Act, Section 4407 (12), the Development Review Board may prescribe from time to time, supplementary rules and regulations for any planned unit development. The Development Review Board shall hold public hearings prior to the establishment of any such rules and regulations.

ARTICLE VIII – ADMINISTRATION & ENFORCEMENT

SECTION 810 PLANNING COMMISSION

The Planning Commission created by the Select Board pursuant to chapter 117 of the Act shall have all of the powers and duties of a municipal planning commission as set out in that chapter, as well as such other powers and duties as are specified by this bylaw and shall exercise such other functions as the Select board may assign to it. In particular, but without limiting the generality of the foregoing, the Planning Commission shall have the following duties in association with this bylaw:

- prepare proposed amendments to this bylaw, and consider proposed amendments submitted by others, include amendments submitted by petition;
- prepare and approve written reports on any proposed amendment to this bylaw as required by the Act; and.
- hold one or more warned public hearings on proposed amendments to this bylaw, prior to submission of a proposed amendment and written report to the Select Board.

The Planning Commission shall have seven voting members, or such other number, not less than three or more than nine, as the Select Board shall from time to time determine.

At least a majority of the members of the Planning Commission shall be residents of Enosburgh, including the Village of Enosburg Falls.

The members of the Select Board, or not more than two elected or appointed officials of Enosburgh who are chosen by the Select Board, shall be nonvoting ex officio members of the Planning Commission.

The members of the Planning Commission may be compensated and reimbursed by Enosburgh for necessary and reasonable expenses.

The members of the Planning Commission shall be appointed, each for a term of four years, and any vacancy shall be filled for the unexpired term, by the Select Board. Any member may be removed at any time by unanimous vote of the Select Board.

The Planning Commission shall elect a chairman and a clerk, and shall adopt by majority vote of those members present and voting such other rules as it deems necessary and appropriate for the performance of its functions.

The Planning Commission shall keep a record of its resolutions and transactions, which record shall be maintained as a public record of Enosburgh.

SECTION 820 ADMINISTRATIVE OFFICER (ZONING ADMINISTRATOR)

The Select Board shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of 3 years. The Select Board may remove an

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Administrative Officer for cause at any time after consultation with the Planning Commission.

An acting Administrative Officer may be appointed by the Select Board, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Administrative Officer in the Administrative Officer's absence. In the event an acting Administrative Officer is appointed, the Select Board shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

The Administrative Officer shall literally administer and strictly enforce the provisions of this bylaw, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

In addition, the Administrative Officer shall coordinate the Town's development review programs. If other municipal permits or approvals are required, the Administrative Officer shall provide the applicant with necessary forms. The Administrative Officer may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

The Administrative Officer may enter at reasonable times upon any public or private property for purposes of inspection and investigation, as he or she deems necessary, in order to determine compliance with this bylaw.

SECTION 830 DEVELOPMENT REVIEW BOARD

The Development Review Board created by the Select Board pursuant to chapter 117 of the Act shall have all of the powers and duties of an appropriate municipal panel as set out in that chapter, as well as such other powers and duties as are specified by this bylaw and shall exercise such other functions as the Select board may assign to it. In particular, but without limiting the generality of the foregoing, the Development Review Board shall have all the powers and duties as set forth in the Act to administer the provisions of this bylaw, including but not limited to the power to hear and act upon:

- applications for rights-of-way or easements for development lacking frontage;
- appeals from any decision, act or failure to act by the Administrative Officer
- variance requests;
- requests for waivers of dimensional standards (if applicable);
- applications for site plan approval;
- applications for conditional use approval;
- applications for subdivisions
- applications for planned unit development;
- applications for wireless telecommunications facilities as authorized by the Act;
- Act 250 applications subject to local Act 250 review (if applicable); and
- such other reviews of development as may be provided for in this bylaw.

The Development Review Board shall have five voting members, or such other number, not less than five or more than nine, as the Select Board shall from time to time determine. At least a majority of the members of the Development Review Board shall be residents of Enosburgh, including the Village of Enosburg Falls.

The members of the Planning Commission may be members of, and, if not members of, shall be alternates to, the Development Review Board. Alternates shall serve on the Development Review Board in situations where one or more members of the Board are disqualified or are otherwise unable to serve.

The members of the Development Review Board may be compensated for the performance of their duties, and may be reimbursed by Enosburgh for necessary and reasonable expenses.

The members of the Development Review Board shall be appointed, each for a term of four years or such other term as the Select Board shall from time to time determine, and any

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vacancy shall be filled for the unexpired term, by the Select Board. The Select Board upon written charges and after public hearing may remove any member for cause at any time.

The Development Review Board shall elect its own officers, and shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act and Vermont's Open Meeting Law. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the Board, and any action thereof shall be taken by the concurrence of a majority of the Board.

The Development Review Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, which minutes and records shall be immediately filed in the office of the Town Clerk as a public record of Enosburgh.

The Board of Adjustment created by the Select Board pursuant to chapter 117 of the Act shall cease to exist and shall terminate upon creation of the Development Review Board, and the terms of appointment of the members of the Board of Adjustment shall terminate at that time. Any proceeding before the Board of Adjustment at the time of its termination shall be continued before the Development Review Board according to the rules of that Board with such modification as may be necessary to effect the transition as expeditiously as possible.

Development Review Board Hearings and Public Notice

In accordance with the ACT, a warned public hearing shall be required for conditional use review and appeals and variances and final plat review for subdivisions. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (1) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality.
- (2) Posting of the same information in 3 or more public places within the Town, including the posting of a notice within view from the public-right-of-way nearest to the property for which the application is made;
- (3) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Public notice of all other types of development review hearings, including site review, shall be given not less than 7 days prior to the date of the public hearing, and shall at minimum include the following:

- (1) Posting of the date, place and purpose of the hearing in 3 or more public places within the Town
- (3) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

The applicant shall be required to bear the cost of the public warning and the cost and

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responsibility of notifying adjoining landowners as required above, as determined from the municipal grand list. The applicant shall be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

No defect in the form or substance of any required public notice under this section shall invalidate the action of the DRB where reasonable efforts have been 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 the DRB or the Environmental Court rules an action to be invalid, the action shall be remanded to the DRB to provide new posting and notice, hold a new hearing, and take a new action.

Decisions of the Development Review Board

Any action or decision of the Development Review Board shall be taken by the concurrence of a majority of the members of the Board. In accordance with the Act, the Development Review Board shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day. In addition:

- (1) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under Section __. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.
- (2) In rendering a decision in favor of the applicant, the Development Review Board may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, this bylaw, and the Town Plan currently in effect. This may include, as a condition of approval:
 - (a) the submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Select Board, which may be extended for an additional three-year period with the consent of the owner, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or
 - (b) a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.
- (3) Decisions of the Development Review Board] shall be recorded in the Town land records and a copy maintained on file in the Town Clerk's Office.

SECTION 840 APPEALS

Administrative Officer Actions

Any interested person as defined under the Act may appeal a decision or act of the Administrative Officer within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Development Review Board, or the Town Clerk if no Secretary has been elected, and by filing a copy of the notice with the Administrative Officer.

- (1) The Development Review Board shall hold a public hearing on a notice of appeal within 60 days of its filing. The Development Review Board shall give public notice of

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the hearing under Section ____, and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.

- (2) The Development Review Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 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.
- (3) All appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes [3 V.S.A. §810]. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Development Review Board from time to time, provided that the date and place adjourned hearing shall be announced at the hearing.
- (4) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing. The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Town Clerk as part of the public records of the Town.

Notice of Appeal

A notice of appeal filed under this section shall be in writing and include the following information:

- (1) the name and address of the appellant;
- (2) a brief description of the property with respect to which the appeal is taken;
- (3) a reference to applicable provisions of this bylaw;
- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
- (5) the alleged grounds why such relief is believed proper under the circumstances.

Appeals to Environmental Court

In accordance with the Act, an interested person who has participated in a regulatory proceeding of the Development Review Board may appeal a decision rendered by the Board under Section ____, within 30 days of such decision, to the Vermont Environmental Court. Appeals to the Environmental Court shall also meet the following requirements:

- (1) "Participation" in a Development Review Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Town Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within 5 working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

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SECTION 850 VIOLATIONS & ENFORCEMENT

The commencement or continuation of any land development that is not in conformance with the provisions of this bylaw shall constitute a violation. All violations shall be pursued in accordance with Sections 4451, 4452 of the Act. Each day that a violation continues shall constitute a separate offense.

Notice of Violation

No action may be brought under this section unless the alleged offender has had at least 7 days' warning notice by certified mail that a violation exists, as required under the Act. The notice of violation also shall be recorded in the land records of the Town. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

If the violation is a failure to obtain a permit, the applicant may apply for an After The Fact Permit provided that the project is in full compliance as stated in these by-laws. The fee for After The Fact Permit will be double the regular fee.

The Administrative Officer shall institute, in the name of the Town, any appropriate action, injunction, or other proceeding to enforce the provisions of this bylaw. All fines imposed and collected shall be paid over to the Town.

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. 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 of the Town.

Nothing in this section shall prevent any action, injunction, or other enforcement proceeding by the Town under any other authority it may have, including, but not limited to, a municipality's authority under V.S.A. Title 18 relating to the abatement and removal of a public health risk or hazard.

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Administrative Officer. The complaint shall state fully the causes and basis for the alleged violation. The Administrative Officer shall properly record such a complaint, investigate, and take action as appropriate in accordance with this bylaw.

FEEES

The Select Board shall establish a schedule of fees and amend the schedule as needed to cover some or all the cost of the administration and enforcement of this bylaw. The schedule of fees may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications. The schedule of fees shall be posted in the offices of the Town Clerk and Administrative Officer, and may be altered or amended only by resolution of the Select Board.

RECORDING REQUIREMENTS

Within 30 days after the issuance of a municipal land use permit or notice of violation, the Administrative Officer shall deliver either the original, a legible copy, or a notice of the permit or violation to the Town Clerk for recording in the Enosburgh land records as provided in 24 V.S.A. 1154©, and file a copy in a location where all municipal land use

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permits shall be kept. The applicant may be charged the cost of the recording fees.
The Administrative Officer shall maintain a record of development within the Flood Hazard Area Overlay District including:

- All permits issued for development in areas of special flood hazard;
- 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 have been floodproofed;
- All flood proofing certifications required under this bylaw; and all variance actions, including justification for their issuance.

ARTICLE IX - MISCELLANEOUS PROVISIONS

COMPUTATION OF TIME

Where an event is required or permitted to occur by this bylaw before, on, or after a specified period of time measured from another event, the first day shall not be counted and the final day shall be counted in calculating the period.

SEVERABILITY

If any provision of this bylaw or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this bylaw which can be given effect without the invalid provision or application, and for this purpose the provisions of this bylaw are severable.