

STOCKBRIDGE ZONING BYLAWS

**Adopted by the Stockbridge Selectboard
(April 21, 2011)**

Effective 5/13/11

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1. GENERAL PROVISIONS

1.1 Enactment

Whereas the Town of Stockbridge, Vermont (the Town) has created a Planning Commission and has adopted and has in effect a plan under the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117, herein referred to as the Act, there is hereby established these Zoning Bylaws for the Town of Stockbridge.

1.2 Purpose

It is the purpose of these Bylaws to implement the Stockbridge Town Plan by providing for the appropriate use of all lands in the Town of Stockbridge in a manner which will promote and protect the public health, safety, prosperity, and general welfare; to protect high elevations, steep slopes, soils, forests, stream banks, wetlands, and other natural resources; to encourage the density and distribution of settlement to be in character with the rural residential environment of the Town; and to further the purposes set forth in Section 4302 of the Act.

1.3 Effective Date

These Bylaws or any amendments thereto, shall become effective upon date of their adoption by a vote of the Stockbridge Selectboard at a regular or specially warned meeting.

1.4 Status of Prior Bylaws

These Bylaws, upon adoption, shall replace and amend in their entirety, all prior Town of Stockbridge Zoning Bylaws.

1.5 Validity and Severability

If any portion of these Bylaws are held unconstitutional or invalid by a competent court, the remainder of these Bylaws shall not be affected.

1.6 Precedence of Bylaw

The provisions of these Bylaws shall not in any way impair or remove the necessity of compliance with any other applicable bylaw or ordinances. Where these Bylaws impose a greater restriction, the provisions of these Bylaws shall take precedence.

2. GENERAL BYLAWS

2.1 Application of Bylaws

No building or structure shall be erected, replaced, moved, altered or extended; and no land, building or structure, or part thereof shall be used or substantially changed in use unless in conformity with these Bylaws.

2.2 Zoning Permit

Except as provided herein, no building or land development, construction, reconstruction, conversion, relocation, replacement or enlargement of any building or other structure, nor any mining, excavation or landfill, nor any change in the use of any building or other structure, or land, or extension of use of land, may commence unless a Zoning Permit shall have been duly issued by the Zoning Administrator. Zoning Permits are not required for interior alterations or renovations, provided the use of the building or structure remains substantially unchanged. Addition of internal bedrooms may necessitate septic approval and owners should check prior to beginning such projects. In the Special Flood Hazard Area, all development requires a permit.

Prospective applicants for Zoning Permits may obtain application materials from the Town Offices or Zoning Administrator during regular office hours. All projects, as authorized by a Zoning Permit, shall be commenced within a period of one year and completed within a period of two years. Approved projects not commenced at time of expiration of a Zoning Permit may not be commenced without obtaining a new, valid permit.

2.3 Agricultural, Farming and Forestry - Permit Not Required

Pursuant to 24 V.S.A. § 4413(d) farm structures (excluding dwellings), accepted agricultural practices, and accepted silvicultural practices, as defined by the Secretary of Agriculture, Food and Markets or the Commissioner of Forest, Parks and Recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6 are exempt from local permitting requirements. Agricultural and silvicultural practices not in conformance with the Act are prohibited.

Though no permit is required, farmers intending to erect a farm structure must notify the municipality of the intent to build a farm structure, and abide by setbacks contained within the zoning bylaws, unless they provide an approval of lesser setbacks by the Commissioner of Agriculture, Food and Markets. The notification must contain a sketch of the proposed structure and include the setback distances from adjoining property owners and the street right-of-way. Additionally, all farm structures within the Special Flood Hazard Area must comply with the National Flood Insurance Program.

2.3.1. Enforcement and Penalties

A. Violations of Accepted Agricultural Practices shall be enforced under this Section as violations of these bylaws in accordance with 10 VSA § 1974a, § 4451, and § 4452. Such violations shall also be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. Section 4812.

B. When a violation occurs in the Special Flood Hazard Area, a copy of the notice of violation will be mailed the State NFIP Coordinator.

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

2.4 Construction Approved or Commenced prior to Adoption or Amendment of these Bylaws

No new Zoning Permit shall be required for any building upon which permitted construction had begun or within which a permitted use was established prior to the adoption or amendment of these Bylaws, provided such construction is completed within two years from the date of the original permit approval. Nothing contained in these Bylaws shall require any change in plans or construction of a non-complying structure for which a Zoning Permit has been issued and which has been completed within two years of the original permit approval.

2.5 Certificate of Compliance

In order that there be a determination that all buildings hereafter altered, enlarged, moved or constructed and all uses of land and structures are in accordance with the provisions of the Zoning Permit authorizing such activity, a Certificate of Compliance shall be required prior to the use or occupation of any land, building, structure or part thereof.

A Certificate of Compliance shall be issued by the Zoning Administrator upon determination that the building, structure or use authorized by the Zoning Permit is in substantial compliance with the standards and conditions of said permit, these Zoning Bylaws and any applicable health regulations.

A Certificate of Compliance shall be granted or denied within fourteen (14) days after written notice of completion by the applicant to the Zoning Administrator, and shall remain in effect as long as such building, structure or use is in compliance with the standards and conditions authorized by the zoning permit. The Applicant shall have the right to use or occupy said premises if the Zoning Administrator does not respond within the fourteen (14) day period. This shall not, however, be conclusive evidence that the premises comply with the provisions of these Bylaws.

If the Zoning Administrator, after such final inspection, refuses to issue a Certificate of Compliance, he or she shall state such refusal and cause in writing and immediately mail notice

of such refusal to the applicant at the address indicated on the application. Appeals from decisions of the Zoning Administrator shall be taken to the Zoning Board of Adjustment

2.6 Affordable Housing

These bylaws shall not have the effect of excluding low and moderate income housing.

2.6.1 Mobile Homes, Modular and Prefabricated Housing

Pursuant to 24 V.S.A. § 4412 (1)(B), a mobile home, modular home or prefabricated 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 under these bylaws.

2.6.2 Multi-Family Housing

These Bylaws shall not have the effect of excluding multi-family (three or more units in one structure) dwellings from the Town of Stockbridge. 24 V.S.A. § 4412(1) (D).

A multi-family dwelling shall be considered a conditional use in the Rural Residential and Business Enterprise districts. Multi-family dwellings shall be subject to the following conditions:

Multi-family units will be required to provide adequate parking, but no less than one parking space per bedroom, and shall comply with all state requirements for septic, health, and safety regulations.

2.7 Childcare Facilities

A family child care facility serving no more than six full-time children and four part-time children shall be considered to constitute a permitted single family residential use of property. A family child care facility serving more than six full-time and four part-time children shall be reviewed as a conditional use.

3. ZONING DISTRICTS

3.1 Establishment of Zoning Districts and Map

For the purpose of these Bylaws, the following Zoning Districts are hereby established within the Town of Stockbridge.

A.	Village Residential District	VR
B.	Business Enterprise District	BE
C.	Rural Residential District	RR
D.	Upland Conservation District	UC
E.	Special Flood Hazard Area	SFHA

The areas and boundaries of the Zoning Districts are established as shown on a map which is hereby designated as the Official Zoning Map for the Town of Stockbridge and made a part of these Bylaws, together with all future amendments. The official zoning map shall be signed by the Selectboard upon adoption and stamped with the seal of the Town Clerk and remain on file with the Town.

3.2 Interpretation of Zoning District Boundaries

If uncertainty exists with respect to the boundary of any Zoning District, the location of such boundary on the ground shall be determined by the Zoning Administrator. If the Zoning Administrator cannot make such a determination, or if the applicant or other interested party is not satisfied with the decision, the matter shall be determined by the Zoning Board of Adjustment. In making such determination, the applicant may be required to submit information regarding the existing uses and characteristics of the property.

The Zoning Administrator shall determine the boundaries of any designated area of special flood hazard by scaling distances of the Official Flood Hazard Area Map. Appeals with respect to a boundary interpretation shall be made by filing a notice with the secretary of the Zoning Board of Adjustment within fifteen days of the decision or act. For areas in doubt, and where such determination could place the structure outside the Special Flood Hazard Area (SFHA), the burden of proof shall be on the applicant, who shall seek a Letter of Map Amendment/Letter of Map Revision from the Federal Emergency Management Agency, FEMA, which shall constitute proof.

As guidance for use in their determination, zoning district boundaries shall normally be conterminous with property lines, centerlines of roads, or centerlines of water courses unless otherwise noted.

3.3 Village Residential District “VR”

A. Purpose: To provide for the continuance of areas such as Gaysville and Stockbridge villages as social and physical centers of community services; to enable higher density residential and non-residential uses in the traditional village setting and to protect and enhance their character and quality in the future.

B. Uses Requiring An Administrative Permit:

1. Single or Two Family Dwelling
2. Home Occupation
3. Accessory Dwelling Unit (see Section 4.16)
4. Accessory Structure or Use

C. Uses Requiring A Conditional Use Permit:

1. Neighborhood Commercial Facility
2. Multi-Family Dwelling
3. Childcare facilities serving more than six full-time and four part-time children
4. Outdoor Recreation Facility - Public or Private
5. Public Utilities
6. Public Buildings or Uses
7. Bed and Breakfast/Inn
8. Personal and Professional Service
9. Lodging House
10. Home Industry
11. Cemetery
12. Office
13. Wireless Communications Facility
14. Residential Wind Energy Systems
15. Residential Care or Group Home serving more than eight handicapped or disabled persons

D. Land, Area, and Structural Requirements:

1. Minimum Lot Area: 1 acre
2. Minimum Lot Frontage: 100 feet
3. Minimum Lot Depth: 200 feet
4. Minimum Front Setback: 40 feet
5. Minimum Side Setback 15 feet
6. Minimum Rear Setback 10 feet
7. Maximum Building Height 35 feet
8. Maximum Lot Coverage 20%

3.4 Business Enterprise District - "BE"

A. Purpose: To provide for non-residential land development at a scale, type and density as to maintain the scenic quality of Routes 100 and 107; to maximize traffic and pedestrian safety; to provide an attractive, convenient, safe place to conduct business; and to protect and preserve these areas from poorly planned development.

B. Uses Requiring An Administrative Permit:

1. Single or Two-Family Dwelling
2. Home Occupation
3. Accessory dwelling unit
4. Accessory Structure or Use

C. Uses Requiring A Conditional Use Permit:

1. Multi-Family Dwelling
2. Childcare facilities serving more than six full-time and four part-time children
3. Motel, Hotel, Lodge, Bed and Breakfast
4. Lodging House
5. Travel Trailer Park
6. Home Industry
7. Recreation Facility
8. Personal and Professional Service
9. Public Building or Use (such uses shall only have to comply with those aspects that can be regulated under 24 VSA section 4413a)
10. Public Utilities
11. Wireless Communications Facility
12. Residential Wind Energy Systems
13. Retail Store
14. Wholesale Distributor
15. Auto Service Station
16. Neighborhood Commercial Facility
17. Residential Care or Group Home serving more than eight handicapped or disabled persons
18. Other similar commercial or industrial uses upon determination by the ZBA that such use is of the same general character as those permitted and will not be detrimental to the other uses within the District as well as adjoining uses.

D. Land, Area, and Structural Requirements:

1. Minimum Lot Area: 1 acre
2. Minimum Lot Frontage: 100 feet
3. Minimum Lot Depth: 200 feet
4. Minimum Front Setback: 50 feet
5. Minimum Side Setback: 25 feet
6. Minimum Rear Setback: 25 feet
7. Maximum Building Height: 35 feet
8. Maximum Lot Coverage: 20%

3.5 Rural Residential District - "RR"

A. Purpose: To enable rural settlement which is sensitive to and guided by the physical limitations of the land; and to create a pattern of settlement which is compatible with the rural and natural character of Stockbridge.

B. Uses Requiring An Administrative Permit:

1. Accessory Structure or Use
2. Home Occupation
3. Single or Two Family Dwelling
4. Accessory Dwelling Unit

C. Uses Requiring Conditional Use Permit: a lot in a RR district

1. Multiple Family Dwelling
2. Childcare facilities serving more than six full-time and four part-time children
3. Public Building or Use
4. Public Utility
5. Recreation Facility
6. Home Industry
7. Quarrying and Mineral Extraction
8. Lodging House
9. Wireless Communications Facility
10. Residential Wind Energy Systems
11. Auto Service Facility
12. Bed and Breakfast/Inn
13. Personal and Professional Service
14. Retail Store
15. Neighborhood Commercial Facility
16. Residential Care or Group Home serving more than eight handicapped or disabled persons
17. Mobile home park
18. Other similar uses upon determination by the ZBA that such use is of the same general character on those permitted and will not be detrimental to the other uses within the District as well as adjoining uses.

D. Land Area and Structural Requirement:

- | | |
|-----------------------------|----------|
| 1. Minimum Lot Area: | 1 acre |
| 2. Minimum Lot Frontage: | 100 feet |
| 3. Minimum Lot Depth: | 200 feet |
| 4. Minimum Front Setback: | 50 feet |
| 5. Minimum Side Setback: | 25 feet |
| 6. Minimum Rear Setback: | 25 feet |
| 7. Maximum Building Height: | 35 feet |
| 8. Maximum Lot Coverage: | 20% |

3.6 Upland Conservation District - "UC"

A. Purpose: To conserve areas which are ecologically fragile; to promote the enhancement or maintenance of important wildlife habitats and forests; and to maintain the visual quality of mountain sides by encouraging limited residential development and other low intensity uses in clusters or areas of minimal visual and environmental impact.

B. Uses Requiring An Administrative Permit:

1. Accessory Structure or Use
2. Home Occupation
3. Single or Two Family Dwelling
4. Accessory dwelling unit

C. Uses Requiring a Conditional Use Permit:

1. Multiple-Family Dwelling
2. Public Building or Use
3. Public Utility
4. Recreation Facility
5. Home Industry
6. Lodging House
7. Wireless Communications Facility
8. Residential Wind Energy Systems
9. Other similar uses of a non-commercial nature upon determination by the ZBA that such use is of the same general character as those permitted and will not be detrimental to the other uses within the District as well as adjoining uses.

D. Land, Area And Structural Requirements:

1. Minimum Lot Area: 10 acres
2. Minimum Lot Frontage: 400 feet
3. Minimum Lot Depth: 400 feet
4. Minimum Front Setback: 50 feet
5. Minimum Side Setback: 25 feet
6. Minimum Rear Setback: 25 feet
7. Maximum Building Height: 35 feet
8. Maximum Lot Coverage 2.5%

3.7 Special Flood Hazard Area - "SFHA"

A. Purpose:

It is the purpose of these regulations to:

1. 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 services that result from flooding and other flood related hazards; and
2. Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
3. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
4. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

B. Official Flood Hazard Area Map:

These regulations shall apply to all lands in the Town of Stockbridge, Vermont, within identified as areas of special flood hazard (SFHA) in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations. The latest map produced by FEMA and entitled Flood Insurance Rate Map (FIRM), Town of Stockbridge, Vermont and any revisions thereto is hereby adopted as the Official Flood Hazard Overlay Map, and is declared to be part of these Bylaws. Copies of the map are on file with the Town Clerk and are available for inspection.

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

1. All permits issued for development covered by these Bylaws;
2. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings, excepting accessory structures, in the Special Flood Hazard Area
3. All flood proofing and other certifications required under this regulation;
5. All decisions of the Board, including variances, along with all supporting findings of fact, conclusions and conditions.

D. Zoning Board of Adjustment:

1. Upon receiving an application for a permit under these Bylaws, the ZBA shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant the following:

- (a) Base flood elevation data for all subdivisions and other proposed new developments;
 - (b) The elevation in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
 - (c) Where flood proofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been flood proofed;
 - (d) Certification from a registered professional engineer or architect that the flood proofed structure meets the flood proofing criteria of subsection 9.1 of the National Flood Insurance Program, and
 - (e) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
2. Where available; i.e., Zone A1-A30, AE and AH; 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 Bylaws.
 3. In areas where base flood elevations and floodway limits have not been provided, the ZBA shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for approval of all development.
 4. The ZBA shall notify adjacent communities and the Vermont Department of Environmental Conservation prior to approval of any alteration or relocation of a water course and shall submit copies of such notifications to the Federal Insurance Administrator (FIA) Administrator.

E. Development Standards:

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

Where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and may require certification by a registered professional engineer.

2. Regulatory Floodway Areas - Development and other encroachments within the designated floodway is prohibited.

3. Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway)
- (a) All Development: All development shall be reasonably safe from flooding and:
- i. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
 - ii. constructed with materials resistant to flood damage,
 - iii. constructed by methods and practices that minimize flood damage, and
 - iv. constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - v. Proposed development shall be permitted by the Zoning Administrator conditioned on the receipt of all necessary permits from those government agencies from which approval is required by Federal, State or Municipal law.
 - vi. For any new or substantially improved structure in the Special Flood Hazard Area, excepting accessory structures, the applicant shall obtain a FEMA Elevation Certificate for the as-built structure prior to and as a condition to obtaining a Certificate of Compliance.
- (b) Residential Development:
- i. New construction and existing buildings to be substantially improved that are located in Zones A, A1-30 and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
 - ii. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
 - located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement during the occurrence of the base flood.
 - located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist flotation, collapse, and lateral movement.
- (c) Commercial Development:
- i. New construction located in Zones A, A1-30, and AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.

- ii. Existing buildings to be substantially improved located in Zones A, A1-30, AE shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities, be designed so that two feet above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- iii. A permit for an existing building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

(d) Subdivisions:

- i. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
- ii. Subdivisions (including manufactured home parks) shall be designed to assure:
 - such proposals minimize flood damage within the flood-prone area,
 - public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage,
 - adequate drainage is provided to reduce exposure to flood hazards, and
 - any access roads to habitable structures or critical facilities shall be at least one foot above base flood elevations and able to withstand a 100-year event without failure or overtopping.

(e) Enclosed Areas Below Base Flood Elevation:

- i. Enclosures below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- ii. New construction and existing buildings to be substantially improved with fully enclosed areas that are above grade, below the lowest floor, below BFE and subject to flooding shall
 1. Be used solely for parking of vehicles, building access, or storage and such a condition shall clearly be stated in any permits;
 2. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other

coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- (f) Recreational Vehicles: Recreational Vehicles placed on sites within special flood hazard areas shall either:
 - i. be on the site for fewer than 180 consecutive days,
 - ii. be fully licensed and ready for highway use, or
 - iii. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section E.2 (b) ii.

- (g) Accessory Structures: A small accessory structure that represents a minimal investment need not be elevated to the base flood elevation provided the building:
 - i. shall not be used for human habitation,
 - ii. shall be designed to have low flood damage potential,
 - iii. shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
 - iv. shall be firmly anchored to prevent flotation, and
 - v. shall have service facilities such as electrical and heating equipment elevated or floodproofed.

- (h) Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

- (i) Sanitary Sewage Systems: New and replacement 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.

- (j) On-Site Waste Disposal Systems: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- (k) Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

- (l) Flood storage capacity: The net post-development flood storage capacity shall not be less than the pre-development capacity. If cuts and fills are used under this provision, then a certification by an engineer of the net change in flood storage and that the modifications do not create any increase in erosion or flood hazard is required.

F. Conditionally Permitted Uses: Single Family or Two Family Dwelling, Home Occupations, Accessory Dwelling, Accessory Structure, Recreational Facility, Multi-Family Dwelling, Public Utilities, Public Building, Quarrying and Mineral Extraction, Wireless Communications Facility, and Home Industry.

G. Prohibited Uses: Junkyards, landfills, and storage facilities for chemicals, explosives, flammable liquids or other toxic materials shall be prohibited in the SFHA.

H. Warning of Disclaimer of Liability: These Bylaws do not imply that land outside the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. These Bylaws shall not create liability on the part of the Town of Stockbridge or any Town Official or employee thereof for any flood damages that result from reliance on these Bylaws or any administrative decision lawfully made hereunder.

I. Nonconforming Structures and Uses

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

1. The proposed development is in compliance with all the Development Standards in Section 3.7 of these bylaws;
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program;
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 24 months.

J. Annual Report to Federal Insurance Administration:

1. The Zoning Administrator shall submit to the Federal Insurance Administration an Annual Report with respect to the administration and enforcement of the Special Flood Hazard Area regulations.
2. A copy of the Annual Report shall be submitted to the Vermont Department of Environmental Conservation.

4. SPECIAL PROVISIONS

4.1 Existing Small Lots

If a lot not conforming to the minimum lot size requirements in the district in which it is located subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

- The lots are conveyed in their preexisting, nonconforming configuration.
- On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
- At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
- The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. Chapter 64.

4.2 Required Frontage On, or Access To, Public Roads

No land development may be permitted which does not have adequate means of access, either frontage on a maintained public road (Class 1, 2, 3, or 4) or, with the approval of the Planning Commission, access by means of a permanent easement or right of way to such a public road. Access easements or rights-of-way shall not be less than twenty (20) feet in width and constructed with proper drainage, erosion control, and so as not to exceed grades in the town road policy. If serving more than two lots or uses, the Planning Commission may require a right-of-way up to forty (40) feet in width to ensure public safety and orderly development. Access on a state highway must be permitted by the Vermont Agency of Transportation and the Stockbridge Selectboard.

4.3 Lots in Two Zoning Districts

Where a district boundary line divides a lot of record at the time such line is adopted, the Bylaws for the less restricted part of such a lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has a frontage on a road in the less restricted district.

4.4 Sewage Disposal

An applicant for a Zoning Permit whose land requires a Subdivision Permit from the Protection Division of the Agency of Natural Resources shall obtain such permit prior to the consideration of a Zoning Permit application. A copy of such Permit shall be submitted as part of the Zoning Application.

In situations where a Septic Permit is required from the State of Vermont prior to the installation or replacement of a wastewater disposal system, prospective applicants for a Zoning Permit shall first obtain a State of Vermont Wastewater Disposal Permit.

No wastewater disposal system planned, constructed, or operated within the Town shall violate State or local Bylaws governing water pollution or sewage disposal.

4.5 Off-Street Parking

No land, building or structure shall be used or substantially changed in use unless there is provided off-street parking that meets the applicable minimum requirement as set forth below.

- (a) **Residential Uses** - Two parking spaces for each dwelling unit (except as otherwise noted).
- (b) **Places of Public Assembly and Restaurants** - One parking space for every three seats, or where there are no seats provided, one parking space for every 200 square feet of floor area in addition to one space for each business and employee vehicle.
- (c) **Commercial or Light Industrial Uses** - One parking space for every business and employee vehicle plus one parking space for every 200 square feet of floor area. Parking for anticipated delivery vehicles shall also be provided.
- (d) **Industrial Uses** - One parking space for every business and employee vehicle. Parking for anticipated delivery vehicles shall also be provided.
- (e) **Home Occupation** - Two parking spaces in addition to two parking spaces for each family dwelling unit.
- (f) **Professional Offices** - One parking space for every 200 square feet of office floor area.
- (g) **Guest House, Bed and Breakfast, Lodge/Inn, Hotel/Motel** - One parking space for each room available for lodging in addition to two parking spaces for each family dwelling unit, where applicable.
- (h) **Special Requirements** - Parking spaces for any number of separate uses may be combined in one parking area, but the spaces required of one use may not be assigned to another use, except upon approval of the Planning Commission and Board of Adjustment. In order to maintain the purpose and intent of these regulations, the Planning Commission shall determine the number of parking spaces to be provided for uses not included in this section to the end that there shall be adequate off-street parking for such uses.

Parking area minimum requirements shall not be satisfied by the use of lands lying within a public right-of-way.

4.6 Outdoor Storage of Junk

The open storage of materials, inoperable or retired junk vehicles, dismantled equipment and other similar items, except for firewood, shall be screened from view from a public highway whether or not such items are used in connection with a business. Fences, walls, trees, shrubs, buildings and land contours are acceptable means of screening outdoor storage. Maintenance of screening for the above purposes shall be a continuing condition and responsibility of the owner of the premises.

4.7 Home Occupations

Vermont law and these Bylaws provide the right of a resident to use a minor portion of the dwelling for an occupation which is customary in a residential area and does not have an undue adverse effect on the character of the area. A Zoning Permit for a home occupation shall be granted by the Zoning Administrator upon meeting the following:

- (a) The conduct of the home occupation is clearly secondary to the residential use of the premises;
- (b) The home occupation is conducted by the resident at the residence and does not involve more than two full-time people other than the residents of the house;
- (c) Traffic resulting from the home occupation shall not be at a volume substantially greater than would be normally anticipated; and
- (d) The floor area of the home occupation does not exceed fifty percent of the total floor area of the residence.

4.8 Home Industry

Statement of Purpose: The purpose of the home industry concept is to allow for the wise use of structures on residential properties and to provide owners the opportunity to pursue alternative entrepreneurial activities in a residential setting.

General Requirements: Noted below are the general requirements for a home industry. A home industry is a commercial use requiring both site plan review and conditional use review. During the review process, attention shall be granted to protecting rural character and adjacent properties in the area. Applications will be denied if road conditions are considered too narrow or unsafe to accommodate additional traffic.

1. The owner of the home industry shall reside on the property.
2. No more than two on-premise employees who are not part of the owner's family are permitted.
3. Exterior displays or signs other than those permitted in the district, exterior storage of materials, and exterior indicators of the home industry or obvious variations from the residential character of the principal use shall not be permitted.
4. Parking shall be placed to the rear of the structure, where feasible or to the side of the structure. Parking shall be provided off-road and shall be adequately screened.
5. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall be prohibited.
6. Traffic shall not be generated in a greater volume or frequency than would be normally anticipated in the neighborhood so as to cause or increase unreasonable congestion or nuisance on roads, walkways, or accesses to neighboring properties.

4.9 Temporary Structures

In order to facilitate the long-term use of property, temporary structures or buildings clearly incidental to construction projects may be erected or placed on a lot in non-compliance with the area, structural, and setback requirements of these Bylaws upon approval of the Zoning Administrator. Prior to granting a Zoning Permit for a temporary structure or building, the Zoning Administrator shall first find that its intended purpose is only temporary and that adequate assurance is established that such a structure or building will not remain on the lot for a period of more than twelve months from date of issuance of such permit. Permits may be extended for a period of one year upon application to the Zoning Administrator.

Examples of temporary structures or buildings include construction trailers, storage vans or trailers incidental to a building project, construction fences, electrical and telephone boxes, storage sheds and portable toilets incidental to a building project.

4.10 Obnoxious Uses

No land or structure shall be used or occupied in any manner so as to create obnoxious or excessive noise, smoke, dust, odors, or other forms of interference not characteristic or typical of rural living or adversely affect the reasonable use of surrounding areas or abutting properties.

4.11 Signs - Permit Required

Except for signs necessary for public safety and those signs as exempted by these Bylaws, no person shall erect, display or change the location or size of an outdoor sign or lighted window sign without first obtaining a Zoning Permit from the Zoning Administrator. The purpose of this provision is to control the unplanned and uncoordinated proliferation of outdoor advertising in order to protect the economic, historic, and scenic values of the town and to prevent hazards to users of roads in town.

The following general requirements shall apply to all signs:

- (a) All signs shall be erected, displayed, or located on the same premises as the activity to which it relates, unless the sign is an official business directory sign regulated by the State of Vermont or a temporary sign giving notice of current events.
- (b) Affixed or projecting signs shall not exceed the highest point of a building to which it is attached.
- (c) Free-standing signs shall not exceed 12 feet in height above the finished grade.
- (d) Excessively bright exterior lighting, flashing lights, or similar displays are prohibited. No lighted sign shall have the effect of being such a high intensity or glare as to impair the vision of the driver of a motor vehicle. Permissible lighted signs shall be lit only during the hours that the related establishment is open for business.
- (e) Large, portable or additional signs placed in or on movable vehicles are prohibited.
- (f) Neon, flashing and moving exterior signs are not allowed.
- (g) The area of a business or public building sign shall not exceed 32 square feet unless otherwise approved by the Planning Commission. Sign area for other signs, including professional and home occupations shall not exceed 6 square feet. Sign area for borderless signs shall be determined by measuring the area of the smallest possible rectangle that can contain all elements of the sign.
- (h) The total combined on-premise sign area of all signs on a lot shall not exceed 150 square feet, unless otherwise found by the Planning Commission as an undue hardship.
- (i) All signs shall be located at least the minimum setback distance for side setbacks and at least 10 feet from the edge of the right-of-way for front setbacks, or equal to the existing setback where such is non-conforming.
- (j) No sign shall be erected, attached or maintained upon any tree.
- (k) Every sign permitted shall be maintained in good condition and repair at all times.

4.12 Signs - Exemptions

Permits shall not be required for temporary signs or real estate signs, provided such signs conform to the requirements of this section.

- (a) No more than one temporary sign shall be permitted on a lot, nor shall the sign area exceed 6 square feet. A temporary sign shall not remain for more than 21 days in one calendar year.
- (b) No more than two real estate signs shall be permitted on a lot, nor shall either sign area exceed 6 square feet.
- (c) All exempt signs shall conform with the applicable provisions of Section 4.11.

4.13 Extraction of Gravel, Sand, Soil and Rock

The commercial extraction of gravel, sand, soil and rock or the substantial change of such activities from existing operations shall require Conditional Use Approval from the Zoning

Board of Adjustment. The ZBA, in its review of projects, shall give due consideration to the following standards.

- (a) Plans for the restoration of the disturbed portions of the site during and following the operation shall be adequate to insure that a safe, attractive, and useful condition results.
- (b) Plans for the operation of the facility shall be sufficient to insure that the operation will not adversely affect water quality, drainage patterns, or create excessive dust, traffic, vibration, or noise at the site or areas in close proximity to the site.
- (c) The operation shall be managed to prevent the creation of excessively steep slopes, overhangs, exposed boulders, uprooted stumps, and other debris.
- (d) The scale of intensity of the operation shall not place unreasonable demands on bridges, culverts, or roadways leading to and from the project site.
- (e) If power activated crushing or sorting operations are to be allowed on the site, such activity shall not unduly affect the character of the immediate neighborhood area. To insure that the rehabilitation of the site is properly managed, the ZBA may, as a condition to its approval, require that a performance bond or other forms of surety be posted to cover the costs of restoration or that no more than a predetermined area of the site be exposed at any one time.

The ZBA may, as part of an approval, attach conditions as it finds necessary to ensure the safety and general welfare of the immediate area and the general public.

4.14 Subdivision of Lots

No lot shall be subdivided into two or more lots unless all the lots resulting from such a division conform with the applicable minimum area and building setback standards and the subdivision is in conformance with the Town of Stockbridge Subdivision Regulation and a permit has been issued thereunder.

4.15 Conservation

To prevent soil erosion to ensure conservation of streams for recreational and other purposes, all buildings or structures erected from the effective date of these Bylaws shall be setback thirty-five (35) feet from the upper edge of any stream bank.

4.16 Mobile Home Parks

Mobile homes are permitted in approved mobile home parks subject to the requirements of this section and state law. Mobile home parks are permitted as a conditional use in the Rural Residential district. Mobile home parks are thus subject to review under Section 5 of these Bylaws. New mobile home parks and any addition or alteration to an existing mobile home park, requires conditional use approval by the Zoning Board of Adjustment. Mobile home parks shall meet with all Land, Area, and Structural Requirements for the district where they are to be located.

4.17 Accessory Dwelling Units

An accessory dwelling unit is a permitted use in the Rural Residential, Village Residential, Business Enterprise districts, and Upland Conservation district. An accessory dwelling is a dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit is an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

- (a) The property has sufficient wastewater capacity.
- (b) The unit does not exceed 50 percent of the total habitable floor area of the single-family dwelling, nor shall it exceed 1500 square feet.
- (c) Applicable setback, coverage, and parking requirements specified in these Bylaws are met.

4.18 Height Limitations

Except for farm structures, silos, private home antennae, belfries, steeples, cupolas, water tanks, chimneys, solar equipment, wireless communications towers or antennae, windtowers, or other appurtenances not used for human occupancy, structures shall not exceed a height of 35 feet above average ground level unless approved by the Zoning Board of Adjustment. Any permitted structure in excess of 35 feet shall be setback a minimum of 150% of the height of the structure from all property boundaries and public right-of-ways.

Wireless Communications Facilities

No wireless communications facilities shall be constructed unless in conformance with the Town of Stockbridge Zoning Bylaw For The Regulation of Wireless Telecommunications Facilities and a permit has been issued thereunder.

4.20 Residential Wind Energy Systems

Residential wind energy systems may be allowed in all zoning districts except the Special Flood Hazard Area as an accessory use to a dwelling subject to conditional use approval by the ZBA in accordance with this chapter and all of the following provisions:

1. The small wind energy system may consist of one or more towers not to exceed a total height, including the tower and the length of the blades, of 130 feet above the height of the ground at the base of the tower.
2. The requested height of the system shall not exceed what is reasonably necessary to provide efficient operation of the system.
3. The applicant shall take all reasonable measures to minimize any undue adverse visual or noise impact of the system.
4. The tower shall be set back a distance one and a half times the total height, including the tower and the length of the blades, from:

- a. Any public or private road right-of-way, unless written permission is granted by the governmental or other entity with jurisdiction over the road;
- b. Any overhead utility lines; and
- c. All property lines, unless written permission is granted by the adjoining landowners.

4.20.1 Expiration and Abandonment of Residential Wind Energy Systems

1. A permit issued pursuant to this Section shall expire if the residential wind energy system is out-of-service or otherwise unused for a continuous 12-month period.
2. A residential wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Zoning Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the Owner provides information that demonstrates the residential wind energy system has not been abandoned.
3. If the residential wind energy system is determined to be abandoned, the owner of a residential wind energy system shall remove the wind tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind tower, the Zoning Administrator may pursue a legal action to have the wind tower removed at the Owner's expense.

4.21 Exterior Lighting

All lights shall be shielded so light is directed downward and not into the night sky. Lighting shall be directed towards the property and not towards neighboring properties. Lighting shall be placed to avoid glare or create a traffic hazard. Lighting shall be minimized to reflect the character of the neighborhood. Substantial changes to exterior lighting (to be determined by the Zoning Administrator) require site plan review for commercial or industrial uses.

4.22 Outdoor Displays

Outdoor displays of goods for sale, other than farm produce, privately owned vehicles and farm equipment shall be prohibited, except for the displays of items located immediately in front of the establishment. No items shall obstruct public rights of way, sidewalks, or parking areas.

4.23 Public Use Limitations

The following uses may only be regulated with respect to size, height, lot coverage, yards, courts, setbacks, density of buildings, off-street parking and loading facilities, landscaping or screening requirements and signage:

- (a) Public utility power generating plants and transmission lines.
- (b) State or community-owned and operated institutions and facilities.
- (c) Public and private schools and other educational institutions certified or licensed by the State of Vermont.
- (d) Churches, temples, convents, and parish houses.
- (e) Public and private hospitals.
- (f) Private utilities.

If any land development, regulated by these Bylaws is also subject to State Statutes, the more stringent or restrictive regulation applicable shall apply.

4.24 Buffer Strip

If any commercial or industrial use abuts a residential property or body of water, there shall be maintained a buffer strip of land not less than ten (10) feet in depth along such common boundary excepting points of access. The strip shall be used and maintained only for a fence or natural plantings to include coniferous trees or shrubs.

4.25 Natural Resource Limitations

The Town Plan has identified fragile areas, critical wildlife habitat areas, and unique resource areas which deserve special attention. Land use decisions shall evaluate the immediate and long-range impact of a proposed use on these resources. Where appropriate, applicants shall consult with specialists regarding the impacts of a proposed development on these resources. Specific standards involving building development on excessively steep slopes, wetlands, and deeryards are outlined below.

- (a) **Excessively Steep Slopes** - Access roads across a slope exceeding 25% may be permitted provided the road itself does not have a slope in excess of 15% and that adequate erosion control measures are followed.
- (b) **Wetlands** - Wetlands identified on the Future Land Use Map shall not be drained, filled, or substantially altered to accommodate land development unless such lands are shown not to be wetlands by a qualified wetlands biologist. Development proposals involving or adjacent to an identified wetland shall provide adequate setbacks to protect water quality, groundwater supply, and flood and erosion control.
- (c) **Deeryards** - Land development located within or immediately adjacent to a deeryard mapped by the Vermont Department of Fish and Wildlife shall be designed and undertaken in a manner compatible with the continued viability of the deeryard. Applicants shall consult with the Department prior to submitting proposals and shall provide evidence of such consultations.

5. ADMINISTRATION, ENFORCEMENT, APPEALS

5.1 Zoning Administrator

A Zoning Administrator is hereby appointed to administer these Zoning Bylaws, as provided for in the Act. By statute, the Zoning Administrator is required to literally enforce these Bylaws and may not permit any development that does not conform with these bylaws and in so doing, shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these Bylaws. The Zoning Administrator should provide an applicant with forms required to obtain any municipal permit or other municipal authorization relating to the regulation by the Town of land development. If other municipal permits or authorizations are required, the Zoning Administrator should coordinate a unified effort on behalf of the municipality in administering the development review programs. The Zoning Administrator should also inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the Agency of Natural Resources in order to assure timely action on any related state permits; nevertheless, the applicant retains the obligation to identify, apply for, and obtain relevant state permits.

All matters involving discretion shall be referred to the Planning Commission or Zoning Board of Adjustment as appropriate.

In accordance with Sections 4464 - 4468 of the Act, an interested person may appeal the decision of the Zoning Administrator by filing notice of appeal to the Zoning Board of Adjustment. Such notice must be filed within 15 days of the date of the decision of the Zoning Administrator. See section 5.4.6.

5.2 Planning Commission

There is hereby established a Planning Commission, which shall consist of not less than three, nor more than nine, members appointed by the Selectboard. Any appointment to fill a vacancy shall be for the unexpired term.

The Planning Commission shall have the authority to conduct those duties established for it under Section 4325 of the Act. The Planning Commission is principally responsible for drafting the Town Plan and the Town's zoning and subdivision bylaws. It also serves as a quasi-judicial board, reviewing site plans, subdivisions and PUDs and may prepare and present building, housing and safety codes, a capital budget and program and any amendments thereto. The Planning Commission shall also be charged with the administration of the procedures allocated to it by these Zoning Regulations.

5.3 Zoning Board of Adjustment (ZBA)

There is hereby established a Zoning Board of Adjustment (ZBA), some or all of whose members may also be members of the Planning Commission. The Zoning Board of Adjustment

shall consist of not less than three, nor more than nine, members appointed by the Selectboard for a term of three years. Any appointment to fill a vacancy shall be for the unexpired term.

The ZBA shall be charged with the proper interpretation of these Bylaws, including the following:

- (a) To hear and rule on appeals concerning any order, requirement, decision, or determination made by the Zoning Administrator or in the administration and enforcement of these Bylaws.
- (b) To hear and grant or deny a request for a variance.
- (c) To hear and approve or deny a request for a Conditional Use Approval

5.4 Zoning Permit

No land development or change in use, unless specifically exempted in these Bylaws, may be commenced within the area affected by these Bylaws without a Zoning Permit being issued by the Zoning Administrator, unless the development has been specifically exempted by state or federal law, or elsewhere in these Bylaws from requiring a permit. No Zoning Permit may be issued by the Zoning Administrator, except in conformance with these Bylaws.

5.4.1 Zoning Permit Application

Applications for Zoning Permits shall be made to the Zoning Administrator on forms approved by the Planning Commission. In addition to the information requested on the form, the Zoning Administrator may require additional information, surveys, site plans, or drawings, to document that the proposed development is in compliance with the bylaws. A fee schedule for applications shall be set by the Selectboard.

When Conditional Use Approval is necessary before acting on a permit, a separate application for such approval shall be filed with the Zoning Administrator as specified in Section 5.9 below.

When development in the Special Flood Hazard Area is proposed, all applications shall also include:

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

5.4.2 Permit Application Submittal Standards

An application which requires Conditional Use Approval, Site Plan Review or Clustered Housing Development Approval shall include submission of the following plans and supporting documents to the Zoning Board of Adjustment or Planning Commission, as appropriate.

- (a) A map showing the general location of the property within the Town and its relationship to existing public roads and highways.
- (b) A statement including the uses of adjacent property, and the names and current addresses of all owners of land immediately adjacent to and directly across all public highways from the property at issue.
- (c) A statement and/or map sufficient to demonstrate the relationship of the proposed development to adjacent land uses, both existing and proposed.
- (d) A proposed site plan, drawn to an appropriate scale, showing the location, height, spacing, uses, and architectural relationships of all buildings existing and proposed open spaces, landscaping, utility lines, streets, driveways, off-street parking facilities, unique or manmade features and the physical conditions of the site.
- (e) In the event land development is proposed involving the condominium form of ownership, copies of the proposed Declaration of Condominium and Condominium Bylaws.
- (f) Quantitative data indicating the number and types of dwelling units and or other uses, parcel size, proposed open space not to include roads, utilities, rights of way, parking and loading areas or small inter-structural yards.
- (g) A development schedule indicating the approximate dates when construction of the project or stages of the project is expected to begin and be completed.
- (h) Existing and proposed future ownership of the property involved.
- (i) Notwithstanding the above, any additional documents and supporting information upon finding by the Planning Commission or the Zoning Board of Adjustment that such information may materially assist in its review and evaluation of the proposal.

5.4.3 Completed Permit Application

An application for a Zoning Permit will not be acted upon until it is considered complete by the Zoning Administrator. For an application to be complete, it must include a signed application form, all required information, any necessary approvals (septic permit, access permit, conditional use approval, etc) and the required application fee. When an application involves a use in the Special Flood Hazard Area, an application will not be deemed complete until the Agency of Natural Resources provides comments or the 30 day comment period expires.

When additional information is requested from the applicant by the Zoning Administrator in order to consider the permit application complete and such information is not presented within 60 days, the application will be deemed rejected.

5.4.4 Referral to State Agency Prior to Issuance

In accordance with Section 4424 of the Act, any permit for the development of land within the Special Flood Hazard Area shall be submitted to the state floodplain manager in the Agency of Natural Resources. No permit shall be issued by the Zoning Administrator prior to either the receipt of comments or the expiration of a period of 30 days, whichever comes first, following the submittal to the Agency.

Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

5.4.5 Approval or Denial of Permit

Within 30 days of the completion of an application and all necessary approvals, the Zoning Administrator shall either issue or deny the zoning permit.

If the permit is denied, the Zoning Administrator shall notify the applicant in writing, stating the reasons for denial, and the procedure for appeal. If the Zoning Administrator fails to act within 30 days, a permit shall be deemed issued on the 31st day.

5.4.6 Effective Date of Zoning Permit

Zoning permits shall not take effect until 15 days after issuance by the Zoning Administrator, or in the event that a notice of appeal is properly filed in accordance with the Act, such permit shall not take effect until final adjudication of said appeal.

Each permit or notice of permit issued under this section shall contain a statement of the period of time within which an appeal may be taken. Within 3 days following the issuance of a permit, the Zoning Administrator shall:

- a) deliver a copy of the permit to the listers of the municipality,
- b) post a copy of the permit at the Town Office until the time for appeal has passed.

Within 3 days following the issuance of a permit, the applicant shall post a copy of the notice of permit on a form prescribed by the Planning Commission within view from the public right-of-way adjacent to the subject property. The Zoning Administrator shall monitor compliance with this provision.

After the 15-day appeal period has closed, but within 30 days after a zoning permit has been issued, the Zoning Administrator shall deliver the original or a legible copy of the notice of permit to the Town Clerk for recording in the town's land records on a form and in a manner as provided in section 1154 of the Act. The Zoning Administrator shall then file a copy of the

effective zoning permit, along with any necessary approvals, conditions, maps or drawings in the Town Office where all municipal land use permits shall be kept.

The Town Clerk may charge the applicant for the cost of the recording fees as required by law.

5.4.7 Appeal of Zoning Administrator's Actions or Zoning Permit

An interested person as defined §4465 of the Act may appeal any decision or act taken by the Zoning Administrator by filing a notice of appeal with the secretary of the ZBA, or with the Town Clerk if no such secretary has been elected. This notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator.

The ZBA shall conduct a hearing of the appeal, as provided in §4465-69 of the Act. The ZBA shall render its decision within 45 days after completing the final hearing. The decision shall include findings of fact setting forth its basis. Failure to render a decision within the 45 days noted above will result in an automatic granting of the appeal. Copies of the decision will be promptly mailed to the applicant and appellant by certified mail and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Zoning Administrator and the Town Clerk.

Appeals of ZBA decisions must be made to the Environmental Court in accord with section 4471 of the Act.

5.4.8 Expiration of Zoning Permit

A zoning permit shall expire two years after the date it was issued by the Zoning Administrator.

5.5 Discontinuance and Abandonment

If a non-conforming or conditional use is discontinued or any structure demolished, destroyed or abandoned for a period of twenty-four (24) consecutive months, it shall be deemed discontinued or abandoned. A discontinued use shall not resume nor shall an abandoned structure be used, unless a new permit is issued and the development is in full compliance with these Bylaws. Where the Zoning Administrator determines that a discontinuance or abandonment has taken place, and the structure presents a detriment to the public health, safety or welfare, creates a nuisance or has an adverse visual impact on the neighborhood, he or she shall notify the owner of this determination via certified mail and file a statement to this effect in the land records. Within six months after notice of discontinuance or abandonment, all structural materials shall be removed from the site and the excavation thus remaining, shall be covered over or filled to normal grade by the owner(s) or the structures shall be repaired, rebuilt or replaced as if it were a new development. Owner(s) may appeal this action to the ZBA and the burden of proof shall be on the owner.

5.6 Nonconformities

Structures and Uses that are in existence prior to the adoption of these Bylaws that do not meet the requirements of these Bylaws are considered "Nonconformities." These nonconformities are subject to specific requirements in the event that a change in design or use is requested.

5.6.1 Nonconforming Uses

Any use of land, including use of a structure on the land, legally in existence as of the effective date of these regulations which does not meet the requirements of these regulations shall be considered a nonconforming use. A nonconforming use may be continued indefinitely subject to the following limitations:

- A. A nonconforming use may be changed to another nonconforming use with the approval of the ZBA, subject to Conditional Use Review under these Bylaws and a determination by the ZBA that the new use is less disruptive and more similar in character and impact with other uses in the district.
- B. A nonconforming use shall not be reestablished if it has been changed to or replaced by a conforming use, or it has been discontinued or abandoned for a period of two years regardless of the intent to resume the nonconforming use, as intent does not confer right.
- C. A nonconforming use may be reestablished within a structure or portion thereof which has been damaged or destroyed, only if a zoning permit for the repair or reconstruction of the structure is obtained within two (2) years of the date of the damage.

5.6.2 Nonconforming Structures

Any structure, or portion thereof, legally in existence as of the effective date of these Bylaws which does not meet the requirements of these Bylaws shall be considered a nonconforming structure. A nonconforming structure may be occupied indefinitely, subject to the following limitations:

- A. A nonconforming structure may undergo normal maintenance and repair without a Zoning Permit, provided that such action does not increase the degree of nonconformance.
- B. A nonconforming structure that has been damaged by any cause may be reconstructed with the issuance of a Zoning Permit either to its prior size and condition, to a smaller or larger size than the original as long as any nonconformities are not increased, but only if such reconstruction is commenced within two (2) years from the date of the damages and completed within one (1) year of the issuance of a Zoning Permit.
- C. Non-conforming structures shall not be moved, enlarged, altered, extended, or reconstructed in any way that increases the degree of non-conformity. A non-complying structure may be extended within the boundary lines of the parcel or lot existing on the effective date of these Bylaws, upon approval of the Zoning Board of Adjustment and the issuance of a zoning permit by the Zoning Administrator, provided that the extension shall not cause the use or structure to become in violation of any parking, unloading, required setback, lot area, building height, access road, or other requirements of these Bylaws. Where a building has less than the required front setback, additions that are lateral to the existing structure may be permitted so long as they become no closer to the

road than the original structure, and provided that pre-existing non-conforming side and rear setback requirements are not reduced.

5.7 Pre-Existing Violations

Adoption of these Bylaws has no effect on uses or structures that were in violation of previous regulations, which shall remain as violations, unless they meet all of the provisions of these Bylaws.

5.8 Site Plan Approval

- (a) No zoning permit shall be issued by the Zoning Administrator for any commercial, industrial, public or quasi-public use or multi-family dwelling (three (3) units or more) until the Planning Commission grants site plan approval. Where site plan approval is required, such approval must be obtained prior to any action being considered by the Zoning Board of Adjustment or Zoning Administrator, except as provided in Subsection (d.)
- (b) In considering its action, the Planning Commission shall review the application information required under Section 5.4.2, taking into consideration the following:
 - 1. Safe vehicular and pedestrian circulation between the site and street network and adjacent traffic generators.
 - 2. The adequacy and safety of circulation, parking and loading facilities.
 - 3. Adequacy of landscaping, screening, and setbacks to achieve compatibility with and protection of adjacent properties.
 - 4. Exterior lighting.
 - 5. The adequacy of surface drainage facilities.
 - 6. The protection of the utilization of renewable energy resources and natural resources.
 - 7. The size, location and design of signs.
 - 8. Other matters specified in these Bylaws.
- (c) The Planning Commission shall conform to the requirements of Section 4416 of the Act before acting on any application and shall impose appropriate conditions and safeguards only with respect to the above considerations, such conditions to include, but not be limited to, the following:
 - 1. May limit the number and nature of access points to a site from adjacent public highways.
 - 2. May require fencing and/or plantings to screen outdoor lighting, outdoor storage areas and driveways, and parking from adjacent residential properties.
 - 3. May require installation of surface drainage facilities to mitigate and control the runoff from parking areas and hard surfaces.

- (d) If a conditional use requires Site Plan Approval, the Planning Commission may coordinate its review process with the ZBA and arrange concurrent meetings with the applicant, if possible, within the specific limits for each review as established herein.

5.8.1 Planning Commission - Appeals

Appeals from the decisions of the Planning Commission shall be to the Vermont Environmental Court in accordance with 24 V.S.A. Section 4471 and related statutes and rules.

5.9 Conditional Use Approval

Development requiring Conditional Use Approval must receive such approval before a zoning permit may be granted. As its name implies, Conditional Use Approval will entail written conditions on development in order to achieve certain goals. The Zoning Board of Adjustment (ZBA) shall prepare written findings of fact with each decision setting forth reasons for approval, approval with conditions, or denial, addressing each of the standards relevant to the proposed development. Such conditions shall be attached to the zoning permit for the properties seeking approval. A Conditional Use Approval shall be granted only if the ZBA determines, after public notice and public hearing, that the proposed use conforms to the following general and specific standards:

1. General Standards – The proposed use shall not result in an adverse effect on any of the following:
 - (a) The capacity of existing or planned community facilities;
 - (b) The character of the area affected;
 - (c) Traffic on roads and highways in the vicinity;
 - (d) The Bylaws and Town Ordinances in effect;
 - (e) Utilization of renewable energy resources.
2. Specific Standards – The proposed use shall comply with all specific provisions of these regulations applicable to it, including, but not limited to lot area, setbacks, coverage, parking and loading facilities, sign regulations, performance standards, landscaping and fencing.

5.9.1 Application for Conditional Use Approval

Applications for Conditional Use Approval must be made to the Zoning Administrator, who shall receive applications for these approvals and transmit them to the Zoning Board of Adjustment for action. Applications shall be accompanied by such materials as determined by the ZBA, and fees determined by the Selectboard. The Zoning Board of Adjustment shall deem when an application is complete. When additional information is requested from the applicant in order to consider the permit application complete and such information is not presented within 60 days, the application will be deemed rejected.

5.9.2 Hearing for Conditional Use Approval

At least one public hearing is required prior to approval of a conditional use. See Section 5.11 for proper notice.

5.9.3 Provision for Independent Consultants

To assist the ZBA in its review of technical issues in applications under this section, it may, after consultation with the applicant, retain consultants and require the applicant to pay the reasonable cost of their services. Any or all final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

5.9.4 Approval or Denial

The ZBA must grant or deny the application for Conditional Use Approval in writing, within 45 days of the final hearing or approval will be automatically given on the 46th day. Copies of the decision will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s) and also filed with the Zoning Administrator and the Town Clerk.

5.9.5 Expiration of Approval for Conditional Use Approval

Any Conditional Use Approval granted under these Bylaws shall expire two (2) years from the date of the written decision granting such approval unless a zoning permit has been issued by the Zoning Administrator for the approved project.

5.9.6 Appeal for Conditional Use Approval

The approval or denial of a Conditional Use Approval by the ZBA may be appealed to the Environmental Court in a manner as specified in Section 4471 of the Act.

5.10 Variances

5.10.1 Appeal for Variance

When approval or a permit for a use has been denied, an applicant may appeal this denial to the Zoning Board of Adjustment and apply for a variance, which, if granted, may allow the use. A variance is a process that takes into account individual factors that may have precluded the issuance of a permit under the more standard permitting or approval processes. A variance may only be granted by the ZBA after a public hearing noticed as required by law and if in accordance with all criteria in 24 V.S.A §4469, §4424(E) and if in the SFHA, also in accordance with 44 CFR §60.6. Except as specified in Section §4469(b) of the Act for renewable energy structures, variances may only be granted by the ZBA upon a written finding that all of the following facts are true:

- (a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of these bylaws in the neighborhood or district in which the property is located.

- (b) That because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these bylaws, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (c) That the unnecessary hardship has not been created by the appellant.
- (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
- (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and the town plan.
- (f) For variances in the Special Flood Hazard Area, the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense. The variance will inform the applicant that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notifications shall be maintained with a record of all variance actions and a copy of such variance shall be affixed to the deed of the property on file in the Stockbridge land records.

In rendering a decision in favor of an appellant under this section, the ZBA may attach such conditions to such variance as it may consider necessary and appropriate under the circumstances to implement the purposes of the Act and the Town Plan. The ZBA must grant or deny the variance within 45 days of the final hearing or approval will be automatically given on the 46th day. Copies of the decision will be promptly mailed to the applicant by certified mail, and by first class mail to every person or body appearing and having been heard at the hearing(s), and also filed with the Zoning Administrator and the Town Clerk.

5.10.2 Expiration of Variance

Any variance granted under these Bylaws shall expire two (2) years from the date of the written decision granting such approval unless a zoning permit has been issued by the Zoning Administrator for the approved project.

5.10.3 Waivers

There are times when a proposed use cannot fit the requirements of a permitted or conditional use. Under certain specific conditions, when only a dimensional change from the established standards (such as a reduction in a setback) is needed, an applicant may be eligible to receive a waiver. A waiver can be issued by the Zoning Board of Adjustment after a formal public hearing, to reduce the dimensional requirements in any district except the Special Flood Hazard Area for only the following purposes:

- A. To allow for disability access;
- B. To allow for necessary life safety improvements.

Waivers may be granted by the Zoning Board of Adjustment if the waiver will not result in a greater than 50% decrease in any dimensional requirement, provided that the structure does not enter the right-of-way.

5.10.4 Appeal of Variance or Waiver

The approval or denial of a variance or waiver by the ZBA may be appealed to the Environmental Court in a manner as specified in Section 4471 of the Act.

5.11 Notice of Public Hearings

At least one warned public hearing shall be required for conditional use approval, variances, Zoning Administrator appeals, site plan review, and final plat review for subdivisions. Notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all the following:

- (a) Publication by the Zoning Administrator in a newspaper of general circulation in the Town of the date, place, and purpose of the hearing; and that participation in the hearing is a prerequisite to the right to take any subsequent appeal.
- (b) Posting of the same information by the Zoning Administrator in three or more public places within the municipality, including the Town Office, Stockbridge Post Office and Gaysville Post Office.
- (c) Posting by the applicant on a form provided by the Town within view from the public right-of-way most nearly adjacent to the property for which an application is made. Such outdoors posting shall be on a form prescribed by the Zoning Board of Adjustment, and if within the Town right-of-way shall be posted no closer than 7 feet to the traveled surface. Posting on private property outside the right-of-way requires landowner permission.
- (d) Written notification by the Zoning Administrator by first class mail to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the hearing is a prerequisite to the right to take any subsequent appeal.
- (e) Written notification to any relevant neighboring town's clerk, as described in (d) above, if the proposed subdivision is within 500 feet of that town.

A record of such above notices is required, whether undertaken by the Zoning Administrator or the applicant, and shall include a copy of the newspaper notice and a signed certification as to the postings. Proof of the mailings may be either by certified mail, return receipt requested, written notice hand-delivered, or a sworn certificate of service of first class mailing. Costs for all notices will be paid by the applicant.

If additional hearings are needed for additional information, the first hearing may be recessed to a later date and time specified at the first hearing without requiring new notice. If the first hearing is closed and any additional hearings are needed, the notice requirements above apply.

5.12 Violations and Enforcement

5.12.1 Violations

The commencement or continuation of any land development, subdivision or land use which is not in conformance with any provision of these Bylaws shall constitute a violation. Attempts to circumvent the provisions of these Bylaws through conveyances or transactions not “at arms length” (such as partially or wholly owned corporations or transactions in collusion), shall void any permits.

5.12.2 Notice of Violation

Pursuant to §4451-4454 of the Act, no legal enforcement action may be brought by the Town under this Section unless the alleged offender has had at least seven (7) days written notice by Certified Mail from the Zoning Administrator. The seven-day warning 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. In the case of violations in the Special Flood Hazard Area, the seven-day warning notice shall also state that failure to cure may result in loss of flood insurance. A copy of the warning shall be sent to the Chairs of the Selectboard, Planning Commission, and ZBA and placed in the permit file for the subject property.

Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of these Bylaws after the seven (7) day notice period and within the next succeeding twelve (12) months.

If the violation is neither appealed nor remedied within seven (7) days, the Zoning Administrator shall file a copy of the notice of alleged violation in the municipal land use permit files, with the Town Clerk for filing in the land records, and shall also mail a copy to the alleged violator. The notice shall include:

- (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
- (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
- (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority.

For violations in the Special Flood Hazard Area, in addition to the above, notice shall also be sent to the state NFIP Coordinator and the Administrator of the National Flood Insurance Program and shall include:

- (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance (Section 1316 of the National Flood Insurance Act of

1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations.)

(e) when applicable, a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

5.12.3 Enforcement and Fines

The Zoning Administrator shall initiate the appropriate legal action in the name of the Town of Stockbridge to enforce the provisions of these Bylaws, but shall not incur costs without the approval of the Selectboard. In the prosecution of alleged offenders through the Environmental Court, the Zoning Administrator shall first consult with the Selectboard and legal counsel, as necessary. The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act.

Any person who violates these Bylaws shall be fined not more \$100 for each offense. Each day that a violation is continued shall constitute a separate offense. In default of payment of the fine, such person shall pay double the amount of such fine. All fines imposed by the Court and collected for violations shall be paid to the Town.

6. CLUSTERED HOUSING DEVELOPMENT

6.1 General Intent and Purposes

The provisions for Clustered Housing Development (CHD) set forth below are intended to permit the development of larger parcels of land in such a manner as will result in the most efficient, aesthetic, and desirable use of such parcels; encourage a more creative approach to the development of such parcels than would otherwise result under these Bylaws; to protect natural resources; and to provide flexibility in the design and placement of buildings, open spaces, vehicular and pedestrian circulation and off-street parking areas so as to best utilize the features of the specific site.

In order to encourage innovation in design and layout and promote the efficient use of land, the Planning Commission may grant Clustered Housing Development approval for proposals subject to the standards and conditions set forth below.

6.2 Clustered Housing Development Approval - Standards and Conditions

In its review and approval of a proposed Clustered Housing Development, the Planning Commission shall find in its written decision that the Project meets all of the following criteria and standards:

- (a) The application submitted satisfies all the requirements for submission of a Clustered Housing Development application as identified by the Planning Commission.
- (b) The parcel size of the proposed Clustered Housing Development meets the minimum area requirements set forth below:

Village Residential	2 acres
Rural Residential	5 acres
Upland Conservation	40 acres
- (c) The setback requirements, as determined for the project in its entirety, and for any and all buildings, structures, or lot lines within the project, comply with all applicable setback requirements.
- (d) The total number of dwelling units and other uses shall not exceed the number or densities which would be permitted in the Planning Commission's judgment if the involved land were subdivided into lots in conformance with the Bylaws unless a density bonus is granted by the Planning Commission.
- (e) Density Bonus - in order to encourage the most appropriate and efficient use of the involved land, the total number of dwelling units and other uses may be exceeded by up to fifty percent (50%), rounded up to the nearest whole number. In granting any such requested density increase, the Commission shall find that:

- The character and siting variations incorporated in the project consists of factors which make a substantial contribution to the general intent and purposes of the CHD provision.
 - Such variation are appropriate based upon, but not limited to, the following project amenities: (i) siting, visual focal points, use of existing physical features such as topography, building orientation, variation in building groups such as clusters; (ii) design features, architectural styles, harmonious use of building materials, landscaping, and pedestrian ways; and (iii) extent and location of open space reservation relative total project area, proposed plans for use and management of such area, and the degree of preservation of natural features for any unimproved areas.
- (f) The design and layout of the project preserves any recognized historic sites or structures and to the greatest extent feasible any natural features or resources of the site.
 - (g) Adequate conditions and technical plans exist to insure the safe treatment of sewage and the provisions of a safe supply of drinking water for the project.
 - (h) If the proposal involves a greater concentration of land uses within some section of the development than upon others, such greater concentration shall be offset by a lesser concentration in other section or sections or by an appropriate reservation of common open spaces on the remaining lands.
 - (i) To encourage maintenance or enhancement of forest resources, wildlife habitats, and critical resource areas for which the project has been designed so areas of the total parcel are permanently set aside as undevelopable and or the purposes set forth above.

6.3 Clustered Housing Development - General Procedures

The Planning Commission encourages developers to meet informally with the Commission to discuss this development option prior to submission of a formal application.

- (a) Upon receipt of an application for Clustered Housing Development Approval, the Commission shall ascertain if the application is complete.
- (b) A request for Clustered Housing Development Approval shall be scheduled for at least one Public Hearing held by the Planning Commission within 30 days from the date of acceptance of the completed application. All procedures as set forth in 24 V.S.A. Section 4407 (3) shall apply also.
- (c) The Planning Commission may attach such reasonable conditions to its approval of a Clustered Housing Development as it finds necessary to further the purposes of these Bylaws and 24 V.S.A. Chapter 117.
- (d) The Planning Commission shall act to approve or disapprove a proposal by written decision within sixty (60) days from the date of the final public hearing.
- (e) Land development for which Approval has been granted shall not commence unless the Zoning Administrator has issued a Permit for such development.
- (f) In the event that substantial construction has not been undertaken within two years from approval, the permit shall expire and a new permit will be required for further development.

6.4 Clustered Housing Development – Appeals

Appeals from the decisions of the Planning Commission shall be to the Vermont Environmental Court in accordance 24 V.S.A. Section 4471 and related statutes and rules.

7. DEFINITIONS

For the purposes of these Bylaws, meanings of the following words and terms shall be interpreted as defined below and all other words shall be presumed to have their normal meaning, unless such meaning runs counter to the purposes and objectives of these Bylaws or the Town Plan. The definitions of terms defined in Section 4303 of the Act, and not otherwise defined herein are made a part of these Bylaws.

ABANDONED STRUCTURE: A structure that is uninhabited and uninhabitable for two or more years.

ACCESSORY DWELLING UNIT: An efficiency or one-bedroom apartment that is clearly subordinate and appurtenant to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation and sanitation. “Appurtenant” means located within the area designated under VSA Title 32 and is a structure “incidental or subordinate to the primary dwelling.”

ACCESSORY STRUCTURE OR USE: A building, structure or use customarily incidental and subordinate to the permitted principal building, structure, or use located on the same lot.

AFFORDABLE HOUSING: Housing that is owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household’s gross annual income, or housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household’s gross annual income. 24 V.S.A. § 4303(1) (A).

Low Income Housing: Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy for households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the region in which the housing is located.

Moderate Income Housing: Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the region in which the housing is located.

AUTO SERVICE STATION: Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles, and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise servicing or cleaning such motor vehicles.

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

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

BASEMENT: Any area of the building having its floor elevation below ground level on all sides.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof

CHILD CARE SERVICES: The care, protection and supervision of children under the age of sixteen years outside of their homes for periods of less than 24 hours a day in a day care center.

DETACHED APARTMENT: A dwelling unit in an accessory structure and not attached to the main structure.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DWELLING, ONE FAMILY: Any building or portion thereof, designed or used exclusively as living quarters for one family, other than motels, hotels, tourist homes, clubs, schools, hospitals, or similar use.

DWELLING, TWO FAMILY: Any building or portion thereof, designed or used exclusively as living quarters for two families living independently of each other.

DWELLING, MULTI-FAMILY: Any building or portion thereof, designed or used exclusively as living quarters for three or more families living independently of each other. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi-family dwelling and shall be subject to Conditional Use and Site Plan review.

DWELLING UNIT: Any building or portion thereof, designed or used exclusively as living quarters for one family, other than motels, hotels, tourist homes, clubs, schools, hospitals, or similar use.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FAMILY CHILD CARE HOME OR FACILITY: A home or facility where the owner or operator is to be licensed or registered by the state for child care.

FLOOD: (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

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

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of “flood”).

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

FLOODWAY, REGULATORY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

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

HOME INDUSTRY: Any small industrial or service type of operation carried out on a residential property under the conditions established by these Bylaws. A home industry is a commercial use requiring both site plan review and conditional use review.

HOME OCCUPATION: Accessory use of a service, trade or artisan character conducted within a dwelling by the residents thereof, which is clearly secondary to the dwelling used for living purposes and which does not change the character thereof and meets the characteristics under Section 4.7 of these Bylaws.

HOTEL/MOTEL/LODGE: A building or portion thereof kept, used, maintained, advertised or held out to the public to provide overnight accommodations for compensation, by the renting of rooms or a bed within a room. The renting of an entire house does not constitute a hotel, motel or lodge for the purposes of these Bylaws.

LODGING HOUSE: A building in which three or more separate rooms are rented with or without meals. A boarding, tourist, or rooming house shall be deemed a lodging house.

LOT: A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law; to be used, developed or built upon as a unit, which is not divided by a public highway as defined by 19 V.S.A., Section 1.

LOT AREA: The total area within the property lines of a lot, excluding public streets, roads and road right-of-ways, and meeting the district requirements of these Bylaws, and within the municipal boundaries.

LOT FRONTAGE: That portion of a lot which is adjacent and parallel to a public highway as defined by 19 V.S.A., Section 1 or a private way as approved by the Planning Commission

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this definition except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department

of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

MOBILE HOME PARK: Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

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

MULTI-FAMILY DWELLING: See DWELLING, MULTI-FAMILY

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by Stockbridge.

NEIGHBORHOOD COMMERCIAL FACILITY: Any commercial facility such as a grocery, general store, drug store, or retail service establishment intended principally to serve the neighborhood in which it is located.

NON-CONFORMING STRUCTURE: A structure or part thereof that does not conform to the present zoning Bylaws, but was in conformance with all applicable laws, ordinances and regulations prior to enactment of the present Bylaws.

NON-CONFORMING USE: A use of land or a structure that does not conform to the present zoning Bylaws but was in conformance with all applicable laws, ordinances and regulations prior to enactment of the present Bylaws.

PARKING SPACE: A defined space which is at least ten feet wide and twenty feet long outside of the right-of-way or driveway used for the parking of one motor vehicle which affords practical access to the road or right-of-way and graveled or paved sufficiently to permit year-round use.

PERMITTED USE: A use specifically allowed in a given zoning district, requiring only the granting of zoning permit by the Zoning Administrator.

PUBLIC BUILDING OR USES: A building owned by a municipality, county, state, or federal government or a quasi-public building that is property tax exempt, such as church, private school, medical clinic, hospital, library or museum.

RECREATION FACILITY, OUTDOOR PUBLIC OR PRIVATE: Includes sports club, golf course, trap, skeet, and archery ranges, swimming pool, skating rink, riding stable, park, swimming area, tennis court, recreation stadium, skiing facilities, licensed seasonal camps, and similar places of private outdoor recreation. Includes publicly owned and operated playgrounds, playfields, parks, open spaces, swimming pools, and other similar places of publicly owned outdoor recreation.

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

RESIDENTIAL CARE HOME or GROUP HOME: A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted group or residential care home. A residential care home or group home, to be operated under state licensing or registration, serving nine or more persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi family dwelling and shall be subject to conditional use and site plan review.

RETAIL STORE: An establishment engaged in selling goods or services to the general public and rendering services incidental to such goods. Includes enclosed restaurant, shop, store and department store for the sale of retail goods, and shall exclude any drive-in services, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

SETBACK: The minimum distance between any part of any structure and (1) the center line of any road or right-of-way, (2) any property line, or (3) public waters

SIGN: Any surface, fabric, device or display which bears letter, pictorial or sculptured matter, designed to convey information visually and which is exposed to public view. The term shall include all structural members and related elements composed to form a single unit.

SIGN AREA: The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure.

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

START OF CONSTRUCTION: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date.

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

STRUCTURE: An assembly of materials, whether installed on, above or below the surface of the ground for occupancy or use, including but not limited to a building, mobile home, trailer, sign, tennis court, swimming pool, and permanently mounted equipment, but excluding mailboxes, fences, walls, underground utilities, playsets and incidental structures less than 64 square feet in area. *Structure*, for floodplain management purposes, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

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

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

TWO FAMILY DWELLING: See DWELLING, TWO FAMILY

VANTAGE POINT: A point located on a public highway or public water body in Stockbridge from which a proposed wireless communication facility will be visible.

VIOLATION: The commencement or continuation of any land development, subdivision or land use which is not in conformance with any provision of these Bylaws. For floodplain management purposes, violation means the failure of a structure or other development to be fully compliant

with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

WIRELESS COMMUNICATION FACILITY: A tower, pole, antenna, guy wire, or related fixture intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmissions/reception; the construction or improvement of a road, trail, building, or structure incidental to a telecommunications facility.