

# **STOCKBRIDGE ZONING BYLAWS**

**Approved by the Stockbridge Selectboard 10-18-18**

**Adopted by vote of the Town of Stockbridge  
by Australian Ballot 11-6-18**

**Effective 11-6-18**

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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, economic growth, 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 immediately after their adoption by a vote of the Town of Stockbridge by Australian Ballot.

## **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 Bylaws**

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

## **2. GENERAL BYLAWS**

### **2.1 Application and Interpretation 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.

The Zoning Administrator shall administer these regulations literally and make determinations when needed on matters of any uncertainty with respect to the interpretation of the terms or provisions of these Bylaws. Such determinations may be referred or appealed to the Zoning Board of Adjustment (ZBA) in accordance with 24 V.S.A. Section 4465, who shall interpret such terms or provisions. Such interpretations shall be kept on file for use in subsequent proceedings.

### **2.2 Zoning Permit**

No land development (construction, reconstruction, conversion, relocation, replacement or enlargement of any building or other structure, sitework incidental to such, nor any mining, excavation or landfill) 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.

Prospective applicants for Zoning Permits may obtain application materials from the Town Offices or Zoning Administrator (ZA) during regular office hours. See Section 5.4 for application details. Development, even when exempt from these Bylaws, may require other permits or approvals, and the ZA is the local point for referral to these (see Section 5).

For development that does require a permit, sometimes this can be issued by the ZA directly, and at other times approval from the Planning Commission or Zoning Board of Adjustment is required before such a permit can be issued. All applications are submitted to the ZA and start the process there.

### **2.3 Agricultural, Farming and Forestry - Permit Not Required**

Pursuant to 24 V.S.A. § 4413(d) farm structures (excluding dwellings), required 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 Zoning Administrator of the intent to build a farm structure, and abide by setbacks contained within the 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 constructed or modified within the Special Flood Hazard Area must comply with the National Flood Insurance Program as administered by the State of Vermont.

## **2.4 Exempt Development**

The following structures and uses shall be required to meet the applicable setback standards of these Bylaws (unless otherwise specified), but are otherwise exempt from a permit or any other approval under these Bylaws. This exemption does not apply to any development within the Special Flood Hazard Area Overlay.

The exempt structures and uses are:

- a) Fuel or propane storage tanks used for single or two family purposes;
- b) Accessory structures 100 square feet or less in footprint and twelve (12) feet or less in height;
- c) Unenclosed play structures for personal use (such as jungle gyms, swing sets and trampolines).
- d) Normal maintenance and repair to the exterior of an existing structure which does not result in alterations in dimension, or an expansion or change of use;
- e) Interior alterations or repairs to a structure which do not result in an increase in the number of bedrooms or a change in use.
- f) Temporary events (such as public auctions, garage/yard sales, weddings, church suppers, fairs, concerts, festivals, cultural events, trade and antique shows, etc.) not exceeding four (4) consecutive days or more than ten (10) days in a calendar year, provided they are not the principal use of land or structures, and that adequate off-street parking, circulation, and sanitary and trash collection facilities are provided (a public gathering permit from the town and/or state police may be required).  
Farmer's Markets may exceed the ten (10) day limit with a maximum of fifty-two (52) days per calendar year, provided the other conditions of (f) are met.
- g) Power generation and transmission facilities, and networked telecommunications, which are regulated under 30 V.S.A. Section 248 by the Vermont Public Service Board. The Town however desires that such facilities conform to the policies and objectives specified for such development in the Town Plan and for commercial development within these Regulations.
- h) Fences, berms, man-made earthen structures, stone or retaining walls, any of which are five (5) feet high or less and placed outside of the right-of-way in the front yard setback. Placement inside of the right-of-way requires a waiver and permit. Placement within side and rear yard setback areas also requires a waiver issued by the ZA and permit.
- i) Satellite receiving dishes.
- j) Work incidental to the development of non-commercial trails.
- k) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), operation of a cemetery, clearing for lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise



incidental to an existing approved use. This specifically does not include sitework incidental to construction, or extraction and quarrying activities. Also, modifications to an existing access onto a state or town road are required under separate authority to have permission from Vtrans or the Town.

- l) Hunting, fishing, and trapping (as specified under 24 V.S.A. Section 2295) on private or public land. This permit exemption does not include the development of hunting, fishing, and trapping facilities such as firing ranges or rod and gun clubs.
- m) Septic installation, modification, or removal if a State Wastewater Permit has been issued and is in effect, or maintenance of such that is exempt from state permitting.
- n) Amateur radio towers less than fifty (50) feet in height and setback at least 150% of their height from lot lines or rights-of-way.
- o) Solar collectors, clotheslines, residential net-metering installations or other energy devices based on renewable resources for on-site use.
- p) Wind turbines that are not net-metered provided they are less than one hundred (100) feet in height at top of rotor, with a blade diameter no greater than twenty (20) feet and set back at least 150% of their height from a lot line or rights-of-way;
- q) De minimus structures or uses not specifically mentioned in these Bylaws that are incidental and customary to the use on the lot, are consistent with policies of the Town Plan, and so temporary or minimal in their impact on the public that regulation of them is not required to protect health, safety, welfare or environment. Such uses or structures include but are not limited to play equipment, parks, unpaved trails and paths, and seasonal decorations. The ZA is empowered to make such determinations when needed, and appeals of these decisions shall be made to the ZBA.
- r) Temporary signs provided such signs conform to the requirements of these Bylaws and no more than one temporary sign is on a lot, is no greater than six (6) square feet, and such sign shall not remain for more than one calendar year. Temporary real estate signs can exceed the one year limit. The number of election-related political signs are not limited but such signage must be removed no more than five (5) days following the election.

## **2.5 Construction Approved or Commenced prior to these Bylaws**

No new Zoning Permit shall be required for any building upon which lawful 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 of adoption or amendment or from the date of the original permit approval, whichever is sooner.

## **2.6 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 apply for and receive a permit under the provisions of these Bylaws.

## **2.7 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 and these Zoning Bylaws.

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.

## **2.8 Affordable Housing**

These bylaws shall not have the effect of excluding affordable housing, mobile/manufactured homes or multi-family (three or more units in one structure) dwellings from the Town of Stockbridge.

Pursuant to 24 V.S.A. § 4412 (1)(B), a mobile/manufactured home shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under these Bylaws.

## **2.9 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 (6) full-time and four (4) part-time children shall be reviewed as a conditional use.

## **2.10 Zoning Limitations**

The following uses may be regulated herein only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic,

noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- a) State- or community-owned and operated institutions and facilities, including public utilities.
- b) Public and private schools and other educational institutions certified by the state department of education.
- c) Churches and other places of worship, convents, and parish houses.
- d) Public and private hospitals.
- e) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- f) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

### 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.

3.4.	Village Residential District	VR
3.5.	Stockbridge School Hamlet	SSH
3.6.	Rural Residential District	RR
3.7.	Upland Conservation District	UC
3.8.	Mixed Use Light Industrial	MULI
3.9.	Special Flood Hazard Area Overlay	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. In doing so, the Zoning Administrator shall interpret lines as follows:

- a) boundaries indicated as following roads, railroad or utility rights-of-way shall be interpreted to follow the centerlines of such features;
- b) boundaries indicated as following rivers or streams shall be interpreted to follow the channel centerline and shall move with the centerline of such features;
- c) boundaries indicated as following shorelines shall be interpreted as the normal mean water level. In the event of change in the shoreline the boundary shall move with the shoreline;
- d) boundaries indicated as following lot lines shall be interpreted to follow the delineated property boundary as it existed as of the effective date of the zoning map as adopted;
- e) boundaries indicated as parallel or perpendicular to, or extensions of the above features, shall be so interpreted on the ground.

If the Zoning Administrator cannot make such a determination the ZA can refer it to the ZBA, or if the applicant or other interested party is not satisfied with Zoning Administrator's decision, they can appeal it to the ZBA within fifteen days of the decision or act.

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. 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.

### **3.3 Lots in Two Zoning Districts**

If a lot is located in two or more districts, the portion of land in each district shall be governed by the rules of that district, provided that there is sufficient acreage in such district to allow for a conforming lot. When lots only have a complying portion in one district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being entirely in the district with the majority of the lot acreage. In lots within overlay districts, the overlay requirements shall supersede those of the underlying district when more strict.

### **3.4 Village Residential District “VR”**

**A. Purpose:** To provide for the continuance of 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 by Zoning Administrator:**

1. Agribusiness
2. Accessory Dwelling
3. Accessory Structure or Use
4. Dwelling--Single or Two Family
5. Food Truck
6. Home Occupation

#### **C. Uses Requiring ZBA Conditional Use Approval Prior to Permit :**

1. Auto Service Facility
2. Bed and Breakfast/Inn
3. Child care facilities serving more than six full-time and four part-time children
4. Cemetery
5. Home Industry
6. Hotel
7. Light Industry
8. Lodging/Boarding House
9. Motel
10. Multi-Family Dwelling
11. Office
12. Personal and Professional Service
13. Public Buildings or Uses
14. Public Utility
15. Recreation Facility (Outdoor)
16. Residential Wind Energy System
17. Residential Care/Group Home serving more than 8 handicapped or disabled persons
18. Restaurant
19. Retail Establishment

#### **D. Land, Area, and Structural Requirements:**

- |                           |             |                            |         |
|---------------------------|-------------|----------------------------|---------|
| 1. Minimum Lot Area:      | ½ acre      | 6. Minimum Rear Setback    | 10 feet |
| 2. Minimum Lot Frontage:  | 100 feet    | 7. Maximum Building Height | 35 feet |
| 3. Minimum Lot Depth:     | 200 feet    | 8. Maximum Lot Coverage    | 20%     |
| 4. Minimum Front Setback: | 40 feet     |                            |         |
| 5. Minimum Side Setback   |             |                            |         |
|                           | Residential |                            | 15 feet |
|                           | Other       |                            | 25 feet |

### **3.5 Stockbridge School Hamlet District (SSH)**

**A. Purpose:** To continue to support the current pattern of development by providing a small, clustered location where a mix of residential, civic and commercial uses that include properly scaled retail can interact with existing businesses and school/civic center in a manner that encourages mixed-use growth.

#### **B. Uses Requiring An Administrative Permit by Zoning Administrator:**

1. Agribusiness
2. Accessory Dwelling
3. Accessory Structure or Use
4. Dwelling--Single or Two Family
5. Food Truck
6. Home Occupation

#### **C. Uses Requiring ZBA Conditional Use Approval Prior to Permit :**

1. Auto Service Facility
2. Bed and Breakfast/Inn
3. Child Care facilities serving more than six full-time and four part-time children
4. Cemetery
5. Home Industry
6. Hotel
7. Light Industry
8. Lodging/Boarding House
9. Motel
10. Multi-Family Dwelling
11. Office
12. Personal and Professional Service
13. Public Buildings or Uses
14. Public Utility
15. Recreation Facility (Outdoor)
16. Residential Wind Energy System
17. Residential Care or Group Home serving more than 8 handicapped or disabled persons
18. Restaurant
19. Retail Establishment

#### **D. Land, Area, and Structural Requirements:**

- |                           |          |                            |         |
|---------------------------|----------|----------------------------|---------|
| 1. Minimum Lot Area:      | ½ acre   | 7. Maximum Building Height | 35 feet |
| 2. Minimum Lot Frontage:  | 100 feet | 8. Maximum Lot Coverage    | 20%     |
| 3. Minimum Lot Depth:     | 200 feet |                            |         |
| 4. Minimum Front Setback: | 40 feet  |                            |         |
| 5. Minimum Side Setback   |          |                            |         |
| Residential               | 15 feet  |                            |         |
| Other                     | 25 feet  |                            |         |
| 6. Minimum Rear Setback   | 10 feet  |                            |         |

### **3.6 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 by Zoning Administrator:**

1. Agribusiness
2. Accessory Dwelling
3. Accessory Structure or Use
4. Dwelling--Single or Two Family
5. Food Truck
6. Home Occupation

#### **C. Uses Requiring ZBA Conditional Use Approval Prior to Permit:**

1. Auto Service Facility
2. Bed and Breakfast/Inn
3. Contractor's Yard
4. Child care facilities serving more than six full-time and four part-time children
5. Cemetery
6. Earth Material Extraction
7. Home Industry
8. Lodging/Boarding House
9. Mobile Home Park
9. Multi-Family Dwelling
10. Personal and Professional Service
11. Public Buildings or Use
13. Recreation Facility (Outdoor)
14. Residential Wind Energy System
15. Residential Care/Group Home serving more than eight handicapped or disabled persons
16. Restaurant
17. Retail Establishment under 4,000sf with frontage on VT 100 or VT 107
18. Other similar uses of a 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:      | 1 acre   | 7. Maximum Building Height: | 35 feet |
| 2. Minimum Lot Frontage:  | 100 feet | 8. Maximum Lot Coverage:    | 20%     |
| 3. Minimum Lot Depth:     | 200 feet |                             |         |
| 4. Minimum Front Setback: | 50 feet  |                             |         |
| 5. Minimum Side Setback:  | 25 feet  |                             |         |
| 6. Minimum Rear Setback:  | 25 feet  |                             |         |



### **3.7 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 by Zoning Administrator:**

1. Agribusiness
2. Accessory Dwelling
3. Accessory Structure or Use
4. Dwelling--Single or Two Family
5. Food Truck
6. Home Occupation

**C. Uses Requiring ZBA Conditional Use Approval Prior to Permit:**

1. Home Industry
2. Lodging/Boarding House
3. Multiple-Family Dwelling
4. Public Building or Use including state and federal land
5. Recreation Facility, (Outdoor)
6. Residential Wind Energy Systems
7. 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%      |

\* see Section 5.13 Waivers

### 3.8 Mixed Use Light Industrial (MULI)

**A. Purpose:** To provide an appropriate location for mixed use development with a focus on job-producing light industrial establishments..

#### **B. Uses Requiring an Administrative Permit by Zoning Administrator**

1. Agribusiness
2. Accessory Dwelling
3. Accessory Structure or Use
4. Dwelling--Single or Two Family
5. Food Truck
6. Home Occupation

#### **C. Uses Requiring ZBA Conditional Use Approval Prior to Permit:**

1. Child care facilities serving more than six full-time and four part-time children
2. Home Industry
3. Light Industry
4. Office
5. Personal and Professional Service
6. Wholesale Distributor

<b>D. Land, Area, and Structural Requirements:</b>		Residential	Light Industrial
1. Minimum Lot Area:	1 acre		
2. Minimum Lot Frontage:	100 feet		
3. Minimum Lot Depth:	200 feet		
4. Minimum Front Setback:		50 feet	75 feet
5. Minimum Side Setback		25 feet	30 feet
6. Minimum Rear Setback		25 feet	20 feet
7. Maximum Building Height	35 feet		
8. Maximum Lot Coverage		20%	75%

### **3.9 Special Flood Hazard Area Overlay- “SFHA”**

#### **A. Purpose:**

1. To minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public 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, Town, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

All development in the Overlay requires a permit, including existing buildings to be substantially improved that do not alter the footprint.

#### **B. Uses Requiring an Administrative Permit by Zoning Administrator:**

1. Inside floodway:
  - a. Stream stabilization projects or bridges with a State Stream Alteration Permit.
2. Outside floodway:
  - a. At-grade parking or patios related to existing structures that involve no net fill
  - b. Minor improvements and repairs to existing structures that do not enlarge the footprint or involve net fill
  - c. Removal of structures
  - d. Stream stabilization projects or bridges with a State Stream Alteration Permit.

#### **C. Uses Requiring ZBA Conditional Use Approval Prior to Permit:**

1. Inside the floodway:
  - a. Minor improvements to existing structures. New development is prohibited inside the floodway except for bridges or stream stabilization projects that have a Stream Alteration Permit from the Agency of Natural Resources.
2. Outside the floodway:
  - a. Agribusiness
  - b. Accessory Dwelling
  - c. Accessory Structure or Use
  - d. Dwelling--Single Family, Two Family or Multi-Family
  - e. Home Industry
  - f. Home Occupations
  - g. Public Building
  - h. Public Utilities
  - i. Recreational Facility (Outdoor)
  - j. Substantial Improvements

#### **D. Prohibited Uses:**

Junkyards, landfills, and storage facilities for chemicals, explosives, flammable liquids or other toxic materials.

#### **E. Official Flood Hazard Area Map:**

These Bylaws shall apply to all lands in the Town of Stockbridge, Vermont, identified as the Special Flood Hazard Area (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 (ANR) pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these Bylaws. 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.

#### **F. Zoning Board of Adjustment (ZBA):**

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 (BFE) data for all proposed new development and subdivisions
  - (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 floodproofing 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 floodproofed structure meets the floodproofing 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 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 Administration (FIA) Administrator.

### **G. Nonconforming Structures and Uses:**

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

1. The proposed development is in compliance with all relevant Development Standards in subsection H 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 at least one foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program.

### **H. 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. **Standards for Floodway Areas:** New development and other encroachments within the designated floodway is prohibited except for bridges or stream stabilization projects that have a Stream Alteration Permit from the Agency of Natural Resources, and minor improvements to existing structures.
3. **Standards for Floodplain Areas (i.e., special flood hazard areas outside of the floodway):**
  - (a) 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, except 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.
- vii. 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.

(b) Enclosed Areas Below Base Flood Elevation:

- i. Enclosures below grade on all sides (including below grade crawl spaces 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.

(c) 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 sub-section
- (d) 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.
- (e) Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (f) Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (g) On-Site Waste Disposal Systems: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (h) Watercourse Carrying Capacity: The flood and sediment carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- (i) 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.

#### 4. Residential Development:

- (a) New construction and existing buildings to be substantially improved that are located in Zones A, A1-30 and AE<sup>1</sup> shall have the lowest floor, including

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<sup>1</sup> Zone A: Areas subject to inundation with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage.. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown.

Zone A1-A30: Areas subject to inundation with a 1% annual chance flood event determined by detailed methods. BFEs are shown within these zones. (AE Zones is used on new and revised maps in place of Zones A1-A30.)

Zone AH: areas subject to inundation with a 1% annual chance shallow flooding (usually areas of ponding) where average depths are 1-3 feet. BFEs derived from detailed hydraulic analyses are shown in this zone.

basement, elevated to at least one foot above the base flood elevation. Although not required, applicants should check with their insurance agent prior to application as additional elevation (such as 2 feet or greater over base flood elevation) may substantially lower flood insurance premiums.

- (b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  - i. 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 or piers 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 floatation, collapse, and lateral movement during the occurrence of the base flood.
  - ii. 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 forty-eight (48) inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

5. Commercial Development:

- (a) 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. Although not required, applicants should check with their insurance agent prior to application as additional elevation (such as two (2) feet or greater over base flood elevation) may substantially lower flood insurance premiums.
- (b) 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 at least 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. Although not required, applicants should check with their insurance agent prior to application as additional elevation (such as two (2) feet or greater over BF substantially lower flood insurance premiums.

6. Subdivisions:

- (a) 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.
- (b) Subdivisions (including manufactured home parks) shall be designed to assure:
  - i. such proposals minimize flood damage within the flood-prone area,



- ii. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage,
- iii. adequate drainage is provided to reduce exposure to flood hazards, and
- iv. 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.

**I. Warning of Disclaimer of Liability:**

1. 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.
2. 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.

**J. Records:**

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

- a. All permits issued for development covered by these Bylaws;
- b. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for Stockbridge) of the lowest floor, including basement, of all new or substantially improved buildings, except accessory structures, in the Special Flood Hazard Area
- c. All flood proofing and other certifications required under these Bylaws;
- d. All decisions of the ZBA, including variances, along with all supporting findings of fact, conclusions and conditions.

**K. 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 (nonconforming) 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 Zoning Administrator 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 thirty (30) feet in width and constructed with proper drainage, erosion control; limited by permit to that single lot which shall not be subdivided; and not exceed grades in the town road policy. If intended to serve two or more lots or uses, a right-of-way of fifty (50) feet in width is required to ensure public safety and orderly development. Access onto a state highway or town road must be permitted by the Vermont Agency of Transportation or the Stockbridge Selectboard, respectively.

### **4.3 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 Wastewater 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.

#### 4.4 Off-Street Parking

A parking space shall consist of 200 square feet (10 ft. by 20 ft.) of level, readily accessible ground. All drives and parking areas shall be surfaced with hard, durable material; be properly drained so as not to create flow into roads or neighboring properties; and be at least 10 feet from lot lines.

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 two hundred (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 three hundred (300) 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** - Additional parking spaces may be required.
- f) **Professional Offices** - One parking space for every two hundred (200) square feet of office floor area.
- g) **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** -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.

With the approval of the adjacent property owner, needed parking may use spaces shared with adjacent property if hours/days of use are such that spaces may be reasonably expected to be available and are posted with hours available. Parking area minimum requirements shall not be satisfied by the use of lands lying within a public right-of-way.

#### 4.5 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.

#### **4.6 Home Occupations**

Vermont law and these Bylaws provide the right of a resident to use a 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 working on site other than the residents of the house;
- c) Traffic resulting from the home occupation shall not be of a type or volume substantially greater than would be normally anticipated for a residence; and
- d) The floor area of the home occupation does not exceed fifty (50) percent of the total floor area of the residence.
- e) Noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare that are readily observable at the property line and greater than customary and incidental to a residential use are prohibited.

#### **4.7 Home Industry**

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.

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. Noted below are the general requirements for a home industry.

- a) The owner of the home industry shall reside on the property.
- b) 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 should not be permitted.
- c) Additional employee parking should 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.
- d) Noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare that are readily observable at the property line and greater than customary and incidental to a residential use are prohibited.

- e) 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.

#### **4.8 Temporary Structures - Permit Required**

In order to facilitate the long-term use of property, temporary structures or buildings clearly incidental to construction projects, or temporary storage containers not incidental to construction 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.

#### **4.9 Obnoxious Uses**

No land or structure shall be used or occupied in any manner so as to create obnoxious or excessive noise, illumination, 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.

#### **4.10 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 twelve (12) feet in height above the finished grade.
- d) Internally lit signs not to exceed six (6) square feet.
- e) Flashing or moving signs, lights, or similar displays are prohibited.

- f) 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.
- g) Permissible lighted signs shall be lit only during the hours that the related establishment is open for business.
- h) Large, portable or additional signs placed in or on unregistered vehicles are prohibited.
- i) The area of a business or public building sign shall not exceed thirty-two (32) square feet including the support structure.
- j) Sign area for other signs, including professional and home occupations shall not exceed 6 square feet per face.
- k) 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.
- l) The total combined on-premise sign area of all signs on a lot shall not exceed sixty-four (64) square feet unless otherwise found by the ZA to be an undue hardship.
- m) All signs shall be located at least the minimum setback distance for side setbacks and at least ten (10) feet from the edge of the right-of-way, or equal to the existing setback(s) that are non-conforming.
- n) No sign shall be erected, attached or maintained upon any tree.
- o) Every sign permitted shall be maintained in good condition and repair at all times.

#### **4.11 Earth Materials Extraction:**

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 set conditions to ensure the following standards are met:

- (a) Plans for the restoration of the disturbed portions of the site during and following the operation are adequate to insure that a safe, attractive, and useful condition results. Sufficient topsoil shall be required to be left on site for eventual reclamation work. No excavation shall take place within 3 feet of the water table.
- (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. No operations will be allowed outside of 7 am to 7 pm, except under emergency conditions.
- (c) The operation shall be managed to prevent the creation of excessively steep slopes, overhangs, exposed boulders, uprooted stumps, and other debris. Working slopes over 1:1 shall be fenced or posted. No slope will be left after restoration that is greater than 1:2. Top of slope faces may not be closer than fifty (50) feet to lot lines.
- (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.

Crushing machinery will not operate within two hundred (200) feet of a property line. 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.

#### **4.12 Subdivision of Lots**

No lot shall be permitted unless it conforms with the applicable minimum area and access standards, and the subdivision is in conformance with the Town of Stockbridge Subdivision Regulations and a permit has been issued thereunder.

#### **4.13 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 top of bank of any permanent stream.

#### **4.14 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.

#### **4.15 Accessory Dwelling**

An accessory dwelling is a permitted use in any district where a single or two family dwelling is permitted. An accessory dwelling is a dwelling unit that is located inside of or within fifty (50) feet of an owner-occupied single-family dwelling. An accessory dwelling unit is an efficiency or 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 fifteen hundred (1500) square feet.
- (c) Applicable setback, coverage, and parking requirements specified in these Bylaws are met.

#### **4.16 Height Limitations**

Except for farm structures, silos, private home antennae, belfries, steeples, cupolas, water tanks, chimneys, solar equipment, wireless communications towers or antennae, wind towers, or other

appurtenances not used for human occupancy, structures shall not exceed a height of thirty-five (35) feet above average ground level unless approved by the Zoning Board of Adjustment. Any permitted structure in excess of thirty-five (35) feet shall be setback a minimum of 150% of the height of the structure from all property boundaries and public right-of-ways.

#### **4.17 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.

#### **4.18 Outdoor Displays - Retail**

Outdoor displays of goods for sale are allowed so long as the displays are in the immediate proximity of the retail establishment. Items shall not obstruct public rights of way, sidewalks, or parking areas.

#### **4.19 More than One Principal Building per Lot**

No more than one principal building may be placed on a lot unless such buildings are positioned such that the lot is able to be subdivided into separate and individual lots, with both lots and their respective uses conforming to all applicable provisions of these Bylaws, unless a waiver has been received and a permit issued.

Notwithstanding the above, in order to create less visual impact, more than one principal building is allowed per lot in the Mixed Use/Industrial District as a way of breaking up building size. When multiple buildings are proposed, they shall be arranged in a campus-style setting in which buildings relate to one another functionally through pedestrian connections, shared facilities (including formal open space such as courtyards, greens, or plazas), and relate visually through building orientation and the use of common materials, colors, architectural details and signage. Development shall maximize the use of shared facilities with adjacent development, including access, parking and service areas, utilities, and accessory uses and structures.

#### **4.20 Buffer Strip**

If any commercial or industrial use abuts a residential property there shall be maintained a buffer strip of land not less than twenty five (25) feet in depth along such common boundary except points of access. The strip shall be used and maintained only for a fence or natural plantings to include coniferous trees or shrubs.

#### **4.21 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.

#### **4.22 Off-Grid Residential Wind Energy Systems**

Residential wind energy systems that are not net-metered are 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 the following provisions:

- a) 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.
- b) The requested height of the system shall not exceed what is reasonably necessary to provide efficient operation of the system.
- c) The applicant shall take all reasonable measures to minimize any undue adverse visual or noise impact of the system.
- d) 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:
  - i. Any public or private road right-of-way, unless written permission is granted by the governmental or other entity with jurisdiction over the road;
  - ii. Any overhead utility lines; and
  - iii. All property lines, unless written permission is granted by the adjoining landowners.
- e) 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.
- f) 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.

- g) 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.

#### **4.23 Wireless Communication 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.

## **5. ADMINISTRATION, ENFORCEMENT, APPEALS**

### **5.1 Zoning Administrator (ZA)**

A Zoning Administrator is hereby appointed by the Selectboard 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 5.4.4.

### **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 for a term of three years. 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 Clustered Housing Developments, 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 Bylaws.

### **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**

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 these Bylaws. A fee schedule for applications shall be set by the Selectboard and payment of fees is due at application. Fees are non-refundable and do not guarantee a permit.

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, and any necessary approvals (septic permit, access permit, site plan approval, conditional use approval, waiver or variance.) 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 thirty (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.

When Site Plan or Conditional Use Approval is necessary before acting on a permit, the Zoning Administrator shall refer all such applications for such approval to the appropriate municipal panel for action prior to issuance or denial of a permit.

Within thirty (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.

##### **5.4.1 Permit Application Requirements for Approvals**

An application which requires Site Plan, Conditional Use, or Planned Unit Development approval shall include submission of the following plans and supporting documents to the Planning Commission and/or Zoning Board of Adjustment, 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. The Town Clerk is available to help the applicant with the names and addresses as needed.
- (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.

**5.4.2 Permit Application Requirements for in the Special Flood Hazard Area Overlay (also see Section 3.9)**

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. Maps are available for reference at the Town Office.
- (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.

- (c) 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 thirty (30) days, whichever comes first, following the submittal to the Agency.
- (d) 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.

#### 5.4.3 Effective Date, Filing, and Posting of Zoning Permit

Zoning permits shall not take effect until fifteen (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 three (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 applicant will be charged for the cost of the recording fees as required by law.

#### 5.4.4 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

fifteen (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 forty-five (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 forty-five (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.

#### 5.4.5 Expiration of Zoning Permit

A development permit is authorization to undertake certain actions. A zoning permit shall expire two years after the date it was issued by the Zoning Administrator unless fully complied with. A permit that is complied with remains valid and in effect indefinitely. It stays valid regardless of owner.

#### 5.4.6 Permit Coordination

The Zoning Administrator shall inform any person applying for municipal permits or authorizations that the person should contact the regional permit specialist employed by the Vermont Agency of Natural Resources in order to assure timely action on any related State and/or federal permits. Note that this will not change the applicant's sole obligation to identify, apply for, and obtain relevant State/federal permits. The ZA shall also coordinate any local permits/approvals that may be needed.

No development permit shall be issued by the Town of Stockbridge for a structure for human occupation/use that requires a water and wastewater permit, until a wastewater disposal permit has been received and approved by the State.

### 5.5 Discontinuance

Discontinuance applies to cessation of a use. If a non-conforming or conditional use is discontinued for a period of twenty-four (24) consecutive months, it shall be deemed discontinued. A discontinued use shall not resume unless a new permit is issued and the development is in full compliance with these Bylaws. Where the Zoning Administrator determines that a discontinuance has taken place, the ZA

shall notify the owner of this determination via certified mail and file a statement to this effect in the land records. Owner(s) may appeal this action to the ZBA and the burden of proof shall be on the owner.

## **5.6 Abandonment**

- a) Structures shall be considered abandoned for the purposes of these Bylaws if one or more of the following apply:
  - 1) Structures which are not substantially complete within two (2) years of the issuance of a zoning permit,
  - 2) Structures deemed uninhabitable by the Health Officer,
  - 3) Structures deemed a fire danger by the Fire Chief, or
  - 4) Structures which, due to deterioration or damage, lack any major structural element customary to that building type, such as a roof, windows, water supply, etc. for a period of two years.
  
- b) For such structures, the owner shall be notified in writing via certified mail by the ZA that the structure in question has been deemed abandoned and that they must either:
  - 1) apply for a development permit in order to undertake any use or construction, and thereby confirm the intent not to abandon the structure; or
  - 2) fence and sign the property to prevent access, and then as soon as practical remove all materials from the site, restore the site to a normal grade, and establish ground cover sufficient to prevent erosion.

Owner(s) may appeal this action to the ZBA and the burden of proof shall be on the owner. The ZBA may consider the structure's historical significance to the community in its deliberations.

## **5.7 Nonconformities**

- a) Uses: Uses that are lawfully in existence prior to the adoption of these Bylaws but that do not meet the requirements of these Bylaws are considered "nonconformities." A nonconformity may be continued indefinitely subject to the following limitations:
  - 1) Nonconformities that come into compliance with these Bylaws may not be reestablished in a nonconforming manner.
  - 2) Nonconformities deemed discontinued or abandoned shall lose any permission under these Bylaws and any subsequent application to reestablish them shall treat them as a new application.
  - 3) 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.
  - 4) 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 redevelopment or reconstruction of the structure is obtained within two (2) years of the date of the damage.
  
- b) Structures: Structures that are lawfully in existence prior to the adoption of these Bylaws



but that do not meet the requirements of these Bylaws are considered “nonconforming structures”. A nonconforming structure may be occupied indefinitely, subject to the following limitations:

- 1) A nonconforming structure may undergo normal maintenance and repair without a Zoning Permit, provided that such action does not increase the degree of nonconformance and it is not in the Special Flood Hazard Overlay.
- 2) A nonconforming structure not in the Special Flood Hazard Overlay that has been damaged by any cause may be reconstructed with the issuance of a Zoning Permit either to its prior size and condition, or to a smaller or larger size than the original as long as any nonconformities are not increased, but only if such reconstruction is permitted within two (2) years from the date of the damages.
- 3) Non-conforming structures shall not be moved, enlarged, altered, extended, or reconstructed in any way that increases the degree of non-conformity. 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 conforming side and rear setback requirements are met.

#### **5.8 Site Plan Approval Standards**

- a) Other than uses listed in section B of each Zoning District, no zoning permit shall be issued by the Zoning Administrator for any:
  - 1) commercial
  - 2) industrial
  - 3) public or quasi-public use
  - 4) multi-family dwelling (three (3) units or more)until the Planning Commission grants Site Plan approval.
- b) To grant site plan approval, the Planning Commission shall hold at least one public hearing after public notice and review the application information and find that:
  - 1) Safe vehicular and pedestrian circulation between the site and street network and adjacent traffic generators exists.
  - 2) There are adequate parking and loading facilities.
  - 3) There is adequate landscaping, screening, and setbacks to achieve year-round compatibility with and protection of adjacent properties and views from public highways.
    - (i) Landscaping and Screening will be designed to:
      - 1) integrate the site with the surrounding landscape
      - 2) provide separation between incompatible adjacent land uses or activities
      - 3) provide a transition from built features to designated open space areas
      - 4) interrupt the facades of buildings
      - 5) visually reduce the scale and bulk of large buildings
      - 6) define site features, such as main entrances and circulation corridors

- 7) improve the aesthetic appearance of parking lots and service areas
  - 8) have an emphasis on species that are indigenous to Vermont.
- (ii) As a condition of approval, all landscaping and plantings shall be maintained in a healthy and living condition and shall be replaced as needed.
- 4) Proposed exterior lighting complies with these Bylaws.
  - 5) There are adequate surface drainage facilities to handle stormwater on site.
  - 6) The size, location and design of signs complies with these Bylaws.

If a zoning application requires both Site Plan and Conditional Use approvals, 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.

### **5.9 Site Plan Approval Hearing and Decision**

The purpose of the hearing is for the Planning Commission to:

- (a) fully understand the proposal and how it addresses all requirements of these Bylaws
- (b) review all special studies
- (c) identify significant issues or concerns associated with the proposal
- (d) establish all potential interested persons
- (e) provide abutters and other persons an opportunity to comment on the proposal
- (f) provide the Commission with sufficient information to base its approval, approval with conditions, or denial.

The Planning Commission shall take such testimony as will enable them to reach a decision supported by findings of fact, including continuing or closing the initial hearing pending the submittal of further information, and reconvening when such information is ready.

If the Commission decides any additional information is needed from any party, it shall continue the hearing process until it is ready to proceed to a decision. As part of this continuance the Board shall set a time by which such additional information is due. Failure to produce needed information by the applicant or representative may result in denial.

For all relevant criteria applicable to the requested use, the applicant or representative has the burden of proof. This means that the applicant or representative must persuade the Planning Commission that the use complies with these Bylaws. This can be by written or oral testimony provided by the applicant or representative at the hearing. The applicant or representative shall provide sufficient evidence that all relevant criteria have been met even if no party actually opposes that project. Evidence must be credible and clear enough for the Commission to be able make written findings.

To assist the Planning Commission 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.

When sufficient testimony has been taken for the Planning Commission to address each specific standard that applies to that use in that district, they shall close the final hearing and deliberate. Deliberations may be done in private and will lead to a written decision.

The Planning Commission must grant or deny the application for site plan approval in writing, after deliberations and 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.

Any site plan 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.

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.

#### **5.10 Conditional Use Approval Process and Standards**

Applications for any development requiring conditional use approval prior to permit 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.

The Zoning Board of Adjustment shall deem when an application is complete for its review. When additional information is requested from the applicant in order to consider the permit application complete and such information is not presented within sixty ( 60) days, the application will be deemed rejected.

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. Conditional use approval shall be granted only if the ZBA determines, after public notice and public hearing and deliberation that the proposed use conforms to the following general and specific standards:

- a) General Standards – The proposed use shall not result in an undue adverse effect on any of the following:
  1. The capacity of existing or planned community facilities
  2. The character of the area affected as defined by the purposes of the district
  3. Traffic on roads and highways in the vicinity
  4. The Bylaws and Town Ordinances in effect
  5. Utilization of renewable energy resources.

- b) Specific Standards – The proposed use shall comply with all specific provisions of these Bylaws applicable to it, including, but not limited to lot area, setbacks, coverage, parking and loading facilities, sign regulations, performance standards, landscaping and fencing.
- c) So not to contribute to a pattern of strip development, development with frontage on Routes 100 or 107 in the Rural Residential District requiring a conditional use approval shall meet the following specific standards:
1. **Road frontage parking.** Parking lots that extend along the highway and lack depth exhibit broad road frontage. In order to minimize this characteristic, parking lots shall be oriented so that they do not dominate the frontage by allocating additional parking to the side or rear of the building. Topographical constraints will be taken into consideration. Parking areas shall be bordered by landscaped buffers that are integrated with the overall landscaping plan for the site and include trees in suitable locations. Landscaping shall be installed within and contiguous to parking areas to avoid large expanses of parking, to facilitate stormwater management and to reduce the visibility of parking areas from off-site.
  2. **Shared access.** Uses that have single accesses and no connection to adjacent uses inhibit walking and can contribute to a pattern of strip development. There is a lack of connection to surrounding land uses if one must drive back onto a highway in order to access a neighboring property. To avoid this with current and future development, projects will minimize accesses onto state and town highways and maximize connections to adjacent lots. Where reasonable access exists on adjacent lots, projects will be required to use these. Where no alternative access currently exists the project will create a contingency design, with a condition requiring future sharing with adjacent lots and with access located in such a way as to reasonably facilitate sharing. Internal pedestrian access to adjacent properties is required, although if no adjacent development exists yet, sidewalks may simply be designed into the project and required to be built only when adjacent development occurs.
  3. **Building design, size and scale.** Buildings shall take reasonable efforts to be at a scale and a design that is similar to those within the immediate vicinity of the proposed development. For example new buildings should avoid flat roofs. Larger buildings than adjacent uses may be allowed upon finding that proposed landscaping and design elements break the building shape into smaller components (varying roofline, building edge, façade material). Formulaic franchise building designs are not allowed unless they reflect local vernacular architecture.
  4. **Prime Agricultural Land.** Conservation of primary agricultural soils shall be incorporated into a development's design. Development on prime agricultural soils will be approved on the determination that it has been planned to maximize the agricultural potential of the land through the use of clustering techniques, and effective layout and design of roads and utilities.

5. **Outdoor Lighting.** Outdoor lighting fixtures shall be limited to recessed, shielded or fully cut-off fixtures. Outdoor lighting shall be kept to the minimum required for safety, security and intended use. Outdoor lighting fixtures shall be energy-efficient, using metal halide, high-pressure sodium, fluorescent, LED (light-emitting diode) technology, or technology of equivalent or greater energy efficiency. Incandescent lighting may be allowed, provided it is controlled by a motion sensor. Outdoor lighting shall only be illuminated during the hours of operation unless necessary for safety or security reasons.
6. **Efficient use of land.** The project design will make efficient use of land, energy, roads, utilities, and other supporting infrastructure.

In determining whether a proposed development constitutes strip development, the ZBA will consider topographical constraints in the area in which the development is to be located.

### **5.11 Conditional Use Hearing and Decision**

The purpose of the hearing is for the ZBA to:

- (a) fully understand the proposal and how it addresses all requirements of these Bylaws
- (b) review all special studies
- (c) identify significant issues or concerns associated with the proposal
- (d) establish all potential interested persons
- (e) provide abutters and other persons an opportunity to comment on the proposal,
- (f) provide the Board with sufficient information to base its decision: approval, approval with conditions, or denial.

The ZBA shall take such testimony as will enable them to reach a decision supported by findings of fact, including continuing or closing the initial hearing pending the submittal of further information, and reconvening when such information is ready. If the Board decides any additional information is needed from any party, it shall continue the hearing process until it is ready to proceed to a decision. As part of this continuance the Board shall set a time by which such additional information is due. Failure to produce needed information by the applicant may result in denial.

For all relevant criteria applicable to the requested use, the applicant has the burden of proof. This means that the applicant must persuade the ZBA that the use complies with these Bylaws. This can be by written or oral testimony provided by the applicant at the hearing. The applicant shall provide sufficient evidence that all relevant criteria have been met even if no party actually opposes that project. Evidence must be credible and clear enough for the Board to be able make written findings.

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.

When sufficient testimony has been taken for the ZBA to address each general and specific standard that applies to that use in that district, the ZBA shall close the final hearing and deliberate. Deliberations may be done in private and will lead to a written decision.

The ZBA must grant or deny the application for conditional use approval in writing, after deliberations and within forty-five (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.

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.

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

#### **5.12 Variances**

When approval or a permit for a development or use has been denied, an applicant may appeal this denial to the Zoning Board of Adjustment and apply for a variance, which, if granted, shall allow the development use. The ZA may also refer an application directly to the ZBA for a variance instead of denying it. 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 shall 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 shall 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.

For variances in the Special Flood Hazard Area, the ZBA must also find that 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. If issued, variances in the Special Flood Hazard Area 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 46<sup>th</sup> 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.

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.

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

### **5.13 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. Setback Waivers:**

A waiver to allow the least possible deviance from setbacks can be issued by the Zoning Administrator for the following purposes provided that the structure does not enter the right-of-way.:

- (a) To allow for disability access; or
- (b) To allow for required life safety improvements;

**B. Upland Conservation District Development Bonus Waiver:**

To help protect important wildlife habitats and forests and avoid fragmentation in the Upland Conservation District a 100% bonus in allowable density (two dwellings rather than one) may be granted by the ZBA using the conditional use approval process, so long as the waiver will not result in lots over 1 acre and will effectively cluster these so as to retain a contiguous solid block of undeveloped remaining land. Where such waivers are granted by the ZBA the resulting permit shall so specify.

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

**5.14 Notice of Public Hearings**

At least one warned public hearing is [shall be] required for Zoning Administrator appeals, site plan reviews, conditional use approvals, variances. Some waivers also require a warned hearing. Notice for a warned public hearing shall be given not less than fifteen (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 seven (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 clerk, as described in (d) above, if the proposed subdivision is within five hundred (500) feet of that town.

The Zoning Administrator will keep record of such above notices 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.

### **5.15 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.

### **5.16 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 correct the violation or present an action plan and remedial schedule to correct the violation; which must be submitted to the ZA. The alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

The ZA will have 30 days to review and respond to the action plan, at which point the alleged offender will have 7 days to review and respond to the ZA’s findings. When an agreement to remedy the offense has been established, the responsible party may have up to 12 months to cure depending on the level of violation as established by the ZA. If the agreement is not completed or further violation occurs the Town may take legal action against the offender, and levy fines pursuant to 4451 of the Act.

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

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. In addition, notice shall also be sent to the state NFIP Coordinator and the Administrator of the National Flood Insurance Program and shall include:

- (a) 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.)
- (b) 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.

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.

If the violation is not remedied, subject to a written action plan, or appealed within seven (7) days, the ZA shall file a copy of the notice of 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 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 these Bylaws;
- (c) a clear statement that the ZA or public body making the declaration has authority to do so and a citation to that authority.

### **5.17 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 than one thousand dollars (\$1,000) 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.

Violations of Required 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.

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

## **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/Hamlet	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: siting, visual focal points, use of existing physical features such as topography, building orientation, variation in building groups such as clusters; design features, architectural styles, harmonious use of building materials, landscaping, and pedestrian ways; and 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.

**ABUTTER:** An owner whose property is within 300 feet of the property that is subject to an application under review by the Planning Commission and/or the ZBA.

**ACCESS:** A way or means of approach to provide vehicular or pedestrian physical entrance to or egress from a property.

**ACCESSORY DWELLING:** See **DWELLING, ACCESSORY**

**ACCESSORY STRUCTURE:** A structure customarily incidental and subordinate to the permitted principal structure and located on the same lot.

**ACCESSORY USE:** A use customarily incidental and subordinate to the permitted principal use and located on the same lot. When applied to agriculture, this shall be deemed to include the sale of products raised on the property.

**ACT, THE:** The Vermont State statute that is the authority for these Bylaws. Full title: Vermont Municipal and Regional Planning and Development Act, 24 VSA Chapter 117, et seq.

**ACT 250:** 10 VSA Ch. 151.

**ADMINISTRATIVE OFFICER:** The Town official appointed by the Selectboard whose duties are described by the Act and these Bylaws. “Zoning Administrator” or “ZA” is synonymous with this definition.

**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 thirty (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.

**AGRIBUSINESS:** The sale of farm products produced on site.

**AGRICULTURE:** The activity of raising crops and/or animal husbandry and the processing and sale of farm products produced on site. See Section 4413(d) of the Act for State mandated exemptions.

**ALTERATION:** Change of location or of footprint of a structure, other than repairs and modification in building equipment.

**APPLICANT:** The owner, or his or her duly authorized agent, of property proposed to be developed and for which an application for a zoning permit has been submitted in accordance with these Bylaws. The property owner may allow another party such as tenant or contractor to apply for a permit but the property owner shall consent to such person being co-applicant and sign the permit application.

**AUTO SERVICE FACILITY:** 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, 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.

**BED & BREAKFAST/INN:** Overnight accommodations, which may include a morning meal, provided to guests for compensation in a dwelling occupied by a resident.

**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

**CERTIFICATE OF COMPLIANCE:** A statement signed by the Zoning Administrator, setting forth that a structure or use complies with these Bylaws.

**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.

**COMMERCIAL CATERING MOBILE UNIT:** See **FOOD TRUCK**

**CONDITIONAL USE:** A land use permitted in a given zoning district only by approval by the ZBA.

**CONTRACTORS' YARD:** Buildings or structures for uses such as offices and repair facilities and associated storage yards operated by a contractor for storage of large equipment, vehicles, or other materials commonly used in the individual contractor's type of business.

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

**DEVELOPMENT:** The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. (24 VSA S4303(10)).

**DWELLING, ACCESSORY:** An 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. 24 VSA S4412(1)(E) "Appurtenant" means located within the area designated under VSA Title 32 and is a structure "incidental or subordinate to the primary dwelling."

**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 three to five dwelling units. 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:** One or more rooms, connected together, constituting a separate independent housekeeping establishment that is physically separate from other dwelling units that may be in the same structure, and containing facilities for its own independent living, including a toilet, lavatory, food preparation/kitchen facilities and one or more bedrooms. The term shall not include rooms with such provisions intended for guest occupation in boarding houses, dormitories, hotels, or other similar buildings.

For the purposes of this regulation, the term also includes a residential care group home serving not more than 8 persons, or a licensed or registered home child care facility serving no more than six full-time and 4 part-time children.



**EARTH MATERIAL EXTRACTION:** The on-site removal or processing of surface and subsurface materials, including soils, sand, gravel, stone, rock or organic substances other than vegetation, from land or water. Customary extraction operations include sand and gravel pits, rock quarries and accessory processing such as crushing, screening and storage of materials excavated on-site.

**EASEMENT:** A grant of one or more of the property rights by the property owner to or for use by the public, a corporation, or another permit or entity.

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

**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.

**FARMERS MARKET:** Two or more farmer-producers that sell their own agricultural products directly to the general public at a fixed location, products such as fruits and vegetables, meat, fish, poultry, dairy products, and grains, as well as value-added products and arts and crafts.

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

**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.

**FOOD TRUCK:** A trailer or other mobile unit that is towed by another vehicle or is self-propelled and in which food is prepared and/or from which food is served. This definition is not synonymous with “food cart”, which is generally a smaller mobile unit that can be moved manually by one person.

**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 Section 4.7 of 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, including temporary rentals re “airbnbs” which are clearly secondary to the dwelling used for living purposes and which does not change the character thereof and meets the characteristics under Section 4.6 of these Bylaws.

**HOTEL/INN:** An establishment designed or used for public lodging, meeting rooms, meals, service of legal beverages, and related amenities with all rooms accessible from a central point within the building.

**LIGHT INDUSTRY:** Manufacturing activity that uses moderate amounts of partially processed materials to produce items of relatively high value per unit weight". Examples of light industries include the manufacturing of foods, beverages including craft beer, personal care and home care products, cosmetics, drugs, clothes & shoes, furniture, art ware & crafts, consumer electronics and home appliances.

**LODGING/BOARDING HOUSE:** An owner-occupied building in which three to six separate rooms are rented on a long term or seasonal basis 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 COVERAGE:** Any portion of a lot covered or occupied by buildings, roads, parking, drives, stormwater facilities or other man-made improvements

**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:** Adwelling unit constructed on-site composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MOTEL:** A lodging facility for guests, usually having a private outside entrance for each room or suite of rooms, and for each room or suite a parking place provided on the premises.

**MULTI-FAMILY DWELLING:** See **DWELLING, MULTI-FAMILY**

**NON-CONFORMING LOT:** A lot that does not conform to the present Bylaws covering dimensional requirements but was in conformance with all applicable laws, and regulations prior to the enactment of the present Bylaws, including a lot improperly authorized as a result of error by the ZA. 24 VSA S4303(13).

**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.

**OFFICE:** A building, a room, or set of rooms used to conduct the affairs of a business, profession, organization, or public entity.

**ONE-FAMILY DWELLING:** See **DWELLING, ONE FAMILY**

**PARKING SPACE:** A defined space which is at least ten (10) feet wide and twenty (20) 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.

**PERSONAL/PROFESSIONAL SERVICE:** Any business enterprise with the primary purpose of providing personal/professional services. These activities encompass a wide range of professions such as law, medicine, engineering, design, finance, and accounting.

**PUBLIC BUILDING OR USES:** A building or lot 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 clubs, golf courses, trap, skeet, and archery ranges, swimming pools, skating rinks, riding stables, park, swimming areas, tennis courts, recreation stadiums, 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 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.

**RESTAURANT:** An establishment where food and drink is prepared and served to patrons at tables and/or at counters within or adjacent to the principal building.

**RETAIL ESTABLISHMENT:** An establishment engaged in selling goods, services or articles individually or in small quantities directly to the consumer and rendering services incidental to such goods and articles. Retail establishments such as grocery, general, drug, and hardware stores, vehicle and equipment dealerships, and retail service establishments like hairdressers.

**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.

**SITE PLAN:** A plan, drawn at an appropriate scale, illustrating the overall proposed site development, including the location of existing and proposed buildings in and adjacent to the site, building setbacks, the location of street, driveways, parking and loading areas, traffic circulation patterns, loading docks, septic systems, pedestrian walkways, and landscaping.

**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.<sup>2</sup> For purposes of these Bylaws the term

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<sup>2</sup> Zone A: Areas subject to inundation by the 1-percent-annual-chance flood event. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown.

Zone A1-A30: Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. BFEs are shown within these zones. (Zone AE is used on new and revised maps in place of Zones A1-A30.

Zone AH: areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are 1-3 feet. BFEs derived from detailed hydraulic analyses are shown in this zone.

“special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**START OF CONSTRUCTION:** The date any sitework, clearing, renovation, or building incidental to construction that would require a permit under these Bylaws occurs.

**STRIP DEVELOPMENT:** A linear pattern of retail businesses along a major roadway, characterized by box-like buildings, multiple driveways, large signs, and a dependency on automobiles for access and circulation.

**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, shed, mobile home, trailer, sign, tennis court, swimming pool, driveway, road, and permanently mounted equipment; but excluding mailboxes, fences, walls, underground utilities, playsets and incidental structures up to one hundred (100) 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”.

**TEMPORARY STRUCTURE:** Structures, buildings, or storage containers located on a lot for a time period not exceeding one (1) year. 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.

**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.

**VARIANCE:** An approval granted by the ZBA to allow development that does not conform to all provisions of these Bylaws.

**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.

**WHOLESALE DISTRIBUTOR:** A company who handles the wholesale shipments for the manufacturer of a product (or in some cases is the product manufacturer). They have a warehouse, distribution center and ship products directly to the Retailer (or to the customer if they deal in drop shipping).

**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.

**ZBA:** Zoning Board of Adjustment